
A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The purpose of this Part is to provide the
3 insurance commissioner with express prior approval authority
4 over long-term care insurance rates.

5 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
6 amended by adding to part II of article 10H a new section to be
7 appropriately designated and to read as follows:

8 "§431:10H- Disapproval of filings. If the commissioner
9 finds that a filing does not meet the requirements of this
10 chapter in whole or in part, a written request for a hearing may
11 be filed pursuant to section 431:14G-112. The insurer shall
12 bear the burden of proving that the filing meets the
13 requirements of this article."

14 SECTION 3. Section 431:10H-207.5, Hawaii Revised Statutes,
15 is amended to read as follows:

16 "[+] §431:10H-207.5 [+] Premium rate schedule increases.

17 (a) This section shall apply as follows:



1 (1) Except as provided in paragraph (2), this section
2 applies to any long-term care policy or certificate
3 issued in this State after December 31, 2007; and

4 (2) For certificates issued after June 30, 2007, under a
5 group long-term care insurance policy, as defined in
6 paragraph (1) of the definition of "group long-term
7 care insurance" in section 431:10H-104, which policy
8 was in force on July 1, 2007, this section shall apply
9 on the policy anniversary following July 1, 2007.

10 (b) An insurer shall [~~provide notice of a pending~~] request
11 approval from the commissioner of a premium rate schedule
12 increase, including an exceptional increase, [to the
13 commissioner] at least [~~thirty~~] sixty days prior to the notice
14 to the policyholders and shall include:

15 (1) Information required by section 431:10H-221;

16 (2) A certification by a qualified actuary that:

17 (A) If the requested premium rate schedule increase
18 is implemented and the underlying assumptions [~~7~~
19 ~~which~~] that reflect moderately adverse
20 conditions [~~7~~] are realized, no further premium
21 rate schedule increases are anticipated; and



- 1 (B) The premium rate filing [~~is in compliance~~
2 complies with this section;
- 3 (3) An actuarial memorandum justifying the rate schedule
4 change request that includes:
- 5 (A) Lifetime projections of earned premiums and
6 incurred claims based on the filed premium rate
7 schedule increase and the method and assumptions
8 used [~~in determining~~] to determine the projected
9 values, including reflection of any assumptions
10 that deviate from those used for pricing other
11 forms currently available for sale; provided
12 that:
- 13 (i) Annual values for the five years preceding
14 and the three years following the valuation
15 date shall be provided separately;
- 16 (ii) The projections shall include the
17 development of the lifetime loss ratio,
18 unless the rate increase is an exceptional
19 increase;
- 20 (iii) The projections shall demonstrate compliance
21 with subsection (c); and



- 1 (iv) For exceptional increases, the projected
2 experience should be limited to the
3 increases in claims expenses attributable to
4 the approved reasons for the exceptional
5 increase. If the commissioner determines,
6 as provided in paragraph (4) of the
7 definition of "exceptional increase" in
8 section 431:10H-104, that offsets may exist,
9 the insurer shall use appropriate net
10 projected experience;
- 11 (B) Disclosure of how reserves have been incorporated
12 in this rate increase whenever the rate increase
13 will trigger a contingent benefit upon lapse;
- 14 (C) Disclosure of the analysis performed to determine
15 why a rate adjustment is necessary, which pricing
16 assumptions were not realized and why, and what
17 other actions taken by the company have been
18 relied on by the actuary;
- 19 (D) A statement that policy design, underwriting, and
20 claims adjudication practices have been taken
21 into consideration; and



1 (E) [~~If it is necessary to maintain consistent~~
2 ~~premium rates for new certificates and~~
3 ~~certificates receiving a rate increase, the~~
4 ~~insurer shall file composite]~~ Composite rates
5 reflecting projections of new certificates[+], if
6 it is necessary to maintain consistent premium
7 rates for new certificates and certificates
8 receiving a rate increase;

9 (4) A statement that renewal premium rate schedules are
10 not greater than new business premium rate schedules
11 except for differences attributable to benefits,
12 unless sufficient justification is provided to the
13 commissioner; and

14 (5) Sufficient information for [~~the review]~~ approval by
15 the commissioner of the premium rate schedule increase
16 [~~by the commissioner]~~.

17 (c) All premium rate schedule increases shall be
18 determined in accordance with the following requirements:

19 (1) Exceptional increases shall provide that seventy per
20 cent of the present value of projected additional



- 1 premiums from the exceptional increase shall be
2 returned to policyholders in benefits;
- 3 (2) Premium rate schedule increases shall be calculated so
4 that the sum of the accumulated value of incurred
5 claims, without the inclusion of active life reserves,
6 and the present value of future projected incurred
7 claims, without the inclusion of active life reserves,
8 will not be less than the sum of the following:
- 9 (A) The accumulated value of the initial earned
10 premium times fifty-eight per cent;
- 11 (B) Eighty-five per cent of the accumulated value of
12 prior premium rate schedule increases on an
13 earned basis;
- 14 (C) The present value of future projected initial
15 earned premiums times fifty-eight per cent; and
- 16 (D) Eighty-five per cent of the present value of
17 future projected premiums not in subparagraph (C)
18 on an earned basis;
- 19 (3) If a policy form has both exceptional and other
20 increases, the values in paragraph (2) (B) and (D)



1 shall also include seventy per cent for exceptional
2 rate increase amounts; and

3 (4) All present and accumulated values used to determine
4 rate increases shall use the maximum valuation
5 interest rate for contract reserves, as applicable, as
6 specified in sections 431:5-303 and 431:5-307. The
7 actuary shall disclose as part of the actuarial
8 memorandum the use of any appropriate averages.

9 (d) For each rate increase that is implemented, the
10 insurer shall file for review by the commissioner updated
11 projections, as provided in subsection (b)(3)(A), annually for
12 the next three years~~[7]~~ and include a comparison of actual
13 results to projected values. The commissioner may extend the
14 period to greater than three years if actual results are not
15 consistent with projected values from prior projections. For
16 group insurance policies that meet the conditions in subsection
17 ~~[(k)7]~~ (m), the projections required by this subsection shall be
18 provided to the policyholder in lieu of filing with the
19 commissioner.

20 (e) If any premium rate in the revised premium rate
21 schedule is greater than two hundred per cent of the comparable



1 rate in the initial premium schedule, lifetime projections[7] as
2 provided in subsection (b) (3) (A) [7] shall be filed for review by
3 the commissioner every five years following the end of the
4 required period in subsection (d). For group insurance policies
5 that meet the conditions in subsection [~~(k)~~] (m), the
6 projections required by this subsection shall be provided to the
7 policyholder in lieu of filing with the commissioner.

8 (f) If the commissioner has determined that the actual
9 experience following a rate increase does not adequately match
10 the projected experience and that the current projections under
11 moderately adverse conditions demonstrate that incurred claims
12 will not exceed proportions of premiums specified in subsection
13 (c), the commissioner may require the insurer to implement any
14 of the following:

- 15 (1) Premium rate schedule adjustments; or
16 (2) Other measures to reduce the difference between the
17 projected and actual experience.

18 In determining whether the actual experience adequately
19 matches the projected experience, consideration should be given
20 to subsection (b) (3) (E), if applicable.



1 (g) If the majority of the policies or certificates to
2 which the increase is applicable are eligible for the contingent
3 benefit upon lapse, the insurer shall file:

4 (1) A plan, subject to the commissioner's approval, for
5 improved administration or claims processing designed
6 to eliminate the potential for further deterioration
7 of the policy form requiring further premium rate
8 schedule increases, or both, or to demonstrate that
9 appropriate administration and claims processing have
10 been implemented or are in effect; otherwise the
11 commissioner may impose the condition in subsection
12 (h); and

13 (2) The original anticipated lifetime loss ratio and the
14 premium rate schedule increase that would have been
15 calculated according to subsection (c), had the
16 greater of the original anticipated lifetime loss
17 ratio or fifty-eight per cent been used in the
18 calculations described in subsection (c)(2)(A) and
19 (C).

20 (h) For a rate increase filing that meets the following
21 criteria, the commissioner shall review, for all policies



1 included in the filing, the projected lapse rates and past lapse
2 rates during the twelve months following each increase to
3 determine if significant adverse lapsing has occurred or is
4 anticipated:

- 5 (1) The rate increase is not the first rate increase
6 requested for the specific policy form or forms;
- 7 (2) The rate increase is not an exceptional increase; and
- 8 (3) The majority of the policies or certificates to which
9 the increase is applicable are eligible for the
10 contingent benefit upon lapse.

11 If significant adverse lapsing has occurred, is anticipated
12 in the filing, or is evidenced in the actual results as
13 presented in the updated projections provided by the insurer
14 following the requested rate increase, the commissioner may
15 determine that a rate spiral exists. Following the
16 determination that a rate spiral exists, the commissioner may
17 require the insurer to offer, without underwriting, to all in
18 force insureds, subject to the rate increase, the option to
19 replace existing coverage with one or more reasonably comparable
20 products being offered by the insurer or its affiliates;
21 provided that the offer shall be subject to the approval of the



1 commissioner, be based on actuarially sound principles but not
2 on attained age, and provide that maximum benefits under any new
3 policy accepted by an insured shall be reduced by comparable
4 benefits already paid under the existing policy.

5 The insurer shall maintain the experience of all the
6 replacement insureds separate from the experience of insureds
7 originally issued the policy forms. In the event of a request
8 for a rate increase on the policy form, the rate increase shall
9 be limited to the lesser of the maximum rate increase determined
10 based on the combined experience or the maximum rate increase
11 determined based only on the experience of the insureds
12 originally issued the form plus ten per cent.

13 (i) When a filing is not accompanied by supporting
14 information or the commissioner does not have sufficient
15 information to determine whether the filing meets the
16 requirements of this article, the commissioner shall require the
17 insurer to furnish additional information, and the waiting
18 period shall commence as of the date the information is
19 furnished. Until the requested information is provided, the
20 filing shall not be deemed complete or filed, and the filing
21 shall not be used by the insurer. If the requested information



1 is not provided within a reasonable time period, the filing may
2 be returned to the insurer as not filed and not available for
3 use.

4 (j) Except as provided herein, each filing shall be on
5 file for a waiting period of sixty days before the filing
6 becomes effective. The waiting period may be extended by the
7 commissioner for not more than fifteen days if the commissioner
8 gives written notice within the waiting period to the insurer
9 that made the filing that the commissioner needs additional time
10 to consider the filing. Upon written application by the
11 insurer, the commissioner may authorize a filing that the
12 commissioner has reviewed to become effective before the
13 expiration of the waiting period or any extension thereof. A
14 filing shall be deemed to meet the requirements of this article
15 unless disapproved by the commissioner, as provided in section
16 431:10H- , within the waiting period or any extension thereof.

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



1 ~~[(i)]~~ (k) If the commissioner determines that the insurer
2 has exhibited a persistent practice of filing inadequate initial
3 premium rates for long-term care insurance, the commissioner, in
4 addition to subsection (h), may prohibit the insurer from either
5 of the following:

6 (1) Filing and marketing comparable coverage for a period
7 of up to five years; or

8 (2) Offering all other similar coverages and limiting
9 marketing of new applications to the products subject
10 to recent premium rate schedule increases.

11 ~~[(j)]~~ (l) Subsections (a) to ~~[(i)]~~ (k) shall not apply to
12 policies for which the long-term care benefits provided by the
13 policy are incidental, as defined in section 431:10H-104, if the
14 policy complies with all of the following ~~[provisions]~~:

15 (1) The interest credited internally to determine cash
16 value accumulations, including long-term care, if any,
17 are guaranteed not to be less than the minimum
18 guaranteed interest rate for cash value accumulations
19 without long-term care set forth in the policy;

20 (2) The portion of the policy that provides insurance
21 benefits, other than long-term care coverage, meets



1 the nonforfeiture requirements as applicable in any of
2 the following:

3 (A) Section 431:10D-104; and

4 (B) Section 431:10D-107;

5 (3) The policy meets the disclosure requirements of
6 sections 431:10H-113 and 431:10H-114;

7 (4) The portion of the policy that provides insurance
8 benefits, other than long-term care coverage, meets
9 the requirements as applicable in the following:

10 (A) Policy illustrations as required by part IV of
11 article 10D; and

12 (B) Disclosure requirements, as applicable, in
13 article [†]10D[†]; and

14 (5) An actuarial memorandum is filed with the commissioner
15 that includes:

16 (A) A description of the basis on which the long-term
17 care rates were determined;

18 (B) A description of the basis for the reserves;

19 (C) A summary of the type of policy, benefits,
20 renewability, general marketing method, and
21 limits on ages of issuance;



- 1 (D) A description and a table of each actuarial
2 assumption used. For expenses, an insurer shall
3 include per cent of premium dollars per policy
4 and dollars per unit of benefits, if any;
- 5 (E) A description and a table of the anticipated
6 policy reserves and additional reserves to be
7 held in each future year for active lives;
- 8 (F) The estimated average annual premium per policy
9 and the average issue age;
- 10 (G) A statement as to whether underwriting is
11 performed at the time of application. The
12 statement shall indicate whether underwriting is
13 used and, if used, the statement shall include a
14 description of the type or types of underwriting
15 used, such as medical underwriting or functional
16 assessment underwriting. Concerning a group
17 policy, the statement shall indicate whether the
18 enrollee or any dependent will be underwritten
19 and when that underwriting occurs; and
- 20 (H) A description of the effect of the long-term care
21 policy provision on the required premiums,



1 nonforfeiture values, and reserves on the
2 underlying insurance policy, both for active
3 lives and those in long-term care claim status.

4 [~~(k)~~] (m) Subsections (f) and (h) shall not apply to group
5 insurance policies as defined in paragraph (1) of the definition
6 of "group long-term care insurance" in section 431:10H-104
7 where:

8 (1) The policies insure two hundred fifty or more persons
9 and the policyholder has five thousand or more
10 eligible employees of a single employer; or

11 (2) The policyholder, and not the certificate holders,
12 pays a material portion of the premium~~[, which]~~ that
13 shall not be less than twenty per cent of the total
14 premium for the group in the calendar year prior to
15 the year a rate increase is filed.

16 [~~(l)~~] (n) "Exceptional increase", for purposes of this
17 section, shall be as defined in section 431:10H-104."

18 SECTION 4. Section 431:10H-226, Hawaii Revised Statutes,
19 is amended by amending subsection (a) to read as follows:

20 "(a) Benefits under long-term care insurance policies
21 shall be deemed reasonable in relation to premiums; provided



1 that the expected loss ratio is at least sixty per cent [7] and
2 calculated in a manner that provides for adequate reserving of
3 the long-term care insurance risk. [~~In evaluating~~] Prior to any
4 approval, the commissioner shall evaluate the expected loss
5 ratio, and due consideration shall be given to all relevant
6 factors, including:

- 7 (1) Statistical credibility of incurred claims experience
8 and earned premiums;
- 9 (2) The period for which rates are computed to provide
10 coverage;
- 11 (3) Experienced and projected trends;
- 12 (4) Concentration of experience within early policy
13 duration;
- 14 (5) Expected claim fluctuation;
- 15 (6) Experience refunds, adjustments, or dividends;
- 16 (7) Renewability features;
- 17 (8) All appropriate expense factors;
- 18 (9) Interest;
- 19 (10) Experimental nature of the coverage;
- 20 (11) Policy reserves;



1 (12) Mix of business by risk classification, if applicable;
2 and

3 (13) Product features such as long elimination periods,
4 high deductibles, and high maximum limits."

5 SECTION 5. Section 431:10H-226.5, Hawaii Revised Statutes,
6 is amended by amending subsection (b) to read as follows:

7 "(b) An insurer shall provide the information listed in
8 this subsection to the commissioner [~~thirty~~] for approval sixty
9 days prior to making a long-term care insurance form available
10 for sale as follows:

11 (1) A copy of the disclosure documents required in section
12 431:10H-217.5; and

13 (2) An actuarial certification consisting of at least the
14 following:

15 (A) A statement that the initial premium rate
16 schedule is sufficient to cover anticipated costs
17 under moderately adverse experience and that the
18 premium rate schedule is reasonably expected to
19 be sustainable over the life of the form with no
20 future premium increases anticipated;



- 1 (B) A statement that the policy design and coverage
2 provided have been reviewed and taken into
3 consideration;
- 4 (C) A statement that the underwriting and claims
5 adjudication processes have been reviewed and
6 taken into consideration;
- 7 (D) A complete description of the basis for contract
8 reserves that are anticipated to be held under
9 the form~~[, to include:]~~ and that includes:
- 10 (i) Sufficient detail or sample calculations
11 ~~[provided so as]~~ to have a complete
12 depiction of the reserve amounts to be held;
- 13 (ii) A statement that the assumptions used for
14 reserves contain reasonable margins for
15 adverse experience;
- 16 (iii) A statement that the net valuation premium
17 for renewal years does not increase,
18 ~~[except for attained-age rating where~~
19 ~~permitted[+]]~~; and
- 20 (iv) A statement that the difference between the
21 gross premium and the net valuation premium



1 for renewal years is sufficient to cover
2 expected renewal expenses; or if that
3 statement cannot be made, a complete
4 description of the situations where this
5 does not occur; provided that an aggregate
6 distribution of anticipated issues may be
7 used as long as the underlying gross
8 premiums maintain a reasonably consistent
9 relationship; provided further that if the
10 gross premiums for certain age groups are
11 inconsistent with this requirement, the
12 commissioner may request a demonstration
13 under subsection (c) based on a standard age
14 distribution; and

15 (E) With respect to premium rate schedules:

16 (i) A statement that the premium rate schedule
17 is not less than the premium rate schedule
18 for existing similar policy forms also
19 available from the insurer, except for
20 reasonable differences attributable to
21 benefits; or



1 (ii) A comparison of the premium schedules for
2 similar policy forms that are currently
3 available from the insurer, with an
4 explanation of the differences."

5 PART II

6 SECTION 6. The purpose of this part is to modernize
7 certain practices required under chapter 431:10C, Hawaii Revised
8 Statutes, relating to motor vehicle insurance. The current
9 statutory language anticipates a "brick and mortar" sales and
10 claims office. Today, many of the services traditionally
11 accessed in a physical office are being accessed through mobile
12 smart phone or internet technology. Insureds can now purchase
13 insurance or file a claim on their mobile devices. In 2016, the
14 legislature passed legislation allowing electronic versions of
15 insurance cards to meet the physical card requirement of proof
16 of insurance. This part seeks to further modernize the
17 insurance code to incorporate the current use of electronic
18 technology for claims service and adjustment and for sales of
19 motor vehicle insurance. The legislature finds that the
20 insurance code should reflect the current state of business, and
21 provide consumers with the services they desire. Thus, this



1 part allows the insurance commissioner to require that
2 satisfactory arrangements have been made for claims service and
3 adjustment, and sales service for all motor vehicle insurance
4 sold within the State; provided that the provision of a complete
5 sales and claims service office in the State shall be at the
6 commissioner's discretion. This would afford the commissioner
7 maximum flexibility to modernize sales and claims service, and
8 would also allow insurers to modernize their practices to meet
9 the demands of a changing consumer base.

10 SECTION 7. Section 431:10C-119, Hawaii Revised Statutes,
11 is amended by amending subsection (a) to read as follows:

12 "(a) Prior to licensing an insurer to transact a motor
13 vehicle insurance business in this State, the commissioner:

14 (1) Shall effect a thorough examination of the insurer's
15 business experience, financial soundness, and general
16 reputation as an insurer in this and other states. In
17 the discretion of the commissioner, this examination
18 may include an examination of any or all of the
19 business records of the insurer, and an audit of all
20 or any part of the insurer's motor vehicle insurance
21 business, each to be performed by the commissioner's



1 staff or by independent consultants. No license shall
2 be issued until the commissioner is satisfied as to
3 the business experience, financial solvency, and the
4 economic soundness of the insurer;

5 (2) Except for a member-owned reciprocal insurer and its
6 wholly owned insurer subsidiaries, as specified in
7 subsection (c), shall require of each insurer, and
8 determine that satisfactory arrangements have been
9 made for~~[, the provision of a complete sales and~~
10 ~~claims service office in the State,]~~ claims service
11 and adjustment, and for policies sold or issued to
12 consumers in the State; [and]

13 (3) May require an in-state claims service and adjustment
14 office; and

15 ~~[(3)]~~ (4) Notwithstanding any other requirements of this
16 section or of the insurance code, may require a bond
17 in a reasonable amount and with deposits or sureties
18 determined in the commissioner's discretion of any
19 applicant for a license hereunder. The commissioner
20 may, at any time, make and enforce such a requirement
21 of any licensed insurer or self-insurer."



1 PART III

2 SECTION 8. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

4 SECTION 9. This Act shall take effect on July 1, 2112;
5 provided that section 2 shall take effect on January 1, 2018.



Report Title:

Prior Approval Authority; Long-Term Care Insurance; Insurance Rates; Rate Filing; Rate Schedule; Rate Regulation; Motor Vehicle Insurance

Description:

Part I: Provides the Insurance Commissioner express prior approval authority over long-term care insurance rates. Part II: Authorize the Insurance Commissioner to permit motor vehicle insurers to provide claim service and adjustment offices that consumers access through electronic technology. (HB1086 HD1)

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