

ACT 48

A Bill for an Act Relating to Joint Underwriting of Group Health Insurance for Persons Aged Sixty-Five and Over and Amending Chapter 181, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. It is of great public concern that many residents of this State of advanced years do not have readily available to them health insurance adequate to their needs. This measure will encourage and facilitate the writing of group health insurance by private insurers in order to make available to persons aged sixty-five and over and their spouses broader coverage at lower rates than is possible on a regular commercial basis.

SECTION 2. Chapter 181, Revised Laws of Hawaii 1955, as amended, is further amended by adding thereto a new section to be appropriately numbered and to read as follows:

“Sec. . . . It is the purpose of this section to provide a means of more adequately meeting the needs of persons who are 65 years of age or older and their spouses for insurance coverage against financial loss from accident or disease through the combined resources and experience of a number of insurers; to make possible the fullest extension of such coverage by encouraging insurers to combine their resources and experience and to exercise their collective efforts in the development and offering of policies of such insurance to all such applicants at costs lower than those generally available through individual insurers; and to regulate the joint activities herein authorized in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), as amended.

“(a) Wherever used in this section, the following terms shall have the meanings hereinafter set forth or indicated, unless the context otherwise requires:

(1) ‘Association’ means a voluntary unincorporated association

formed for the purpose of enabling cooperative action to provide disability insurance as defined in section 181-8 in accordance with this section in this or any other state having legislation enabling the issuance of insurance of the type provided in this section.

(2) 'Insurer' means any insurance company authorized to transact disability insurance in this State.

(3) 'Extended health insurance' means hospital, surgical and medical expense insurance provided by a policy issued as provided in this section.

"(b) Notwithstanding any other provision of this chapter or any other law which may be inconsistent herewith, any insurer may join with one or more other insurers to plan, develop, underwrite, and offer and provide to any person who is 65 years of age or older and to the spouse of such person, extended health insurance against financial loss from accident or disease, or both. Such insurance may be offered, issued and administered jointly by two or more insurers by a group policy issued to a policyholder through an association formed for the purpose of offering, selling, issuing and administering such insurance. The policyholder may be an association, a trustee, or any other person. Any such policy may provide, among other things, that the benefits payable thereunder are subject to reduction if the individual insured has any other coverage providing hospital, surgical or medical benefits whether on an indemnity basis or a provision of service basis resulting in such insured being eligible for more than 100 per cent of covered expenses which he is required to pay, and any insurer issuing individual policies providing extended hospital, surgical or medical benefits to persons 65 years of age and older and their spouses may also use such a policy provision. Any such policy may be executed on behalf of the insurance companies by a duly authorized person and need not be countersigned on behalf of any such company by a resident agent. A master group policy issued to an association or to a trustee or any person appointed by an association for the purpose of providing the insurances described in this section shall be another form of group disability insurance.

"Any form of policy approved by the commissioner for an association shall be offered throughout the state to all persons 65 and older and their spouses, and the coverage of any person insured under such a form of policy shall not be cancellable except for non-payment of premiums unless the coverage of all persons insured under such form of policy is also cancelled.

"(c) Notwithstanding the provisions of sections 181-361 through 181-407, any person licensed to transact disability insurance as a general agent, subagent or solicitor may transact extended health insurance and may be paid a commission thereon in accordance with commission schedules filed with the commissioner as required by subsection (e).

"(d) Any association formed for the purposes of this section may hold title to property, may enter into contracts, and may limit the liability of its members to their respective pro rata shares of the liability of such association. Any such association may sue and be

sued in its associate name and for such purpose only shall be treated as a domestic corporation. Service of process against such association, made upon a managing agent, any member thereof or any agent authorized by appointment to receive service of process, shall have the same force and effect as if such service had been made upon all members of the association. Such association's books and records shall also be subject to examination under the provisions of sections 181-51 through 181-73, either separately or concurrently with examination of any of its member insurers.

"(e) The forms of the policies, applications, certificates or other evidence of insurance coverage, commission schedules and applicable premium rates relating thereto shall be filed with the commissioner. No such policy, contract, certificate or other evidence of insurance, application or other form shall be sold, issued or used and no endorsement shall be attached to or printed or stamped thereon unless the form thereof shall have been approved by the commissioner or 30 days shall have expired after such filing without written notice from the commissioner of disapproval thereof. The commissioner shall disapprove the forms for such insurance if he finds that they are unjust, unfair, inequitable, misleading or deceptive or that the rates are by reasonable assumptions excessive in relation to the benefits provided. In determining whether such rates by reasonable assumption are excessive in relation to the benefits provided, the commissioner shall give due consideration to past and prospective claim experience, within and outside this State, and to fluctuations in such claim experience, to a reasonable risk charge, to contribution to surplus and contingency funds, to past and prospective expenses, both within and outside this State, and to all other relevant factors within and outside this State including any differing operating methods of the insurers joining in the issue of the policy. In exercising the powers conferred upon him by this section, the commissioner shall not be bound by any other requirement of this chapter with respect to standard provisions to be included in disability policies or forms.

"The commissioner may, after hearing upon written notice, withdraw an approval previously given, upon such grounds as in his opinion would authorize disapproval upon original submission thereof. Any such withdrawal of approval after hearing shall be by notice in writing specifying the ground thereof and shall be effective at the expiration of such period not less than 90 days after the giving of notice of withdrawal, as the commissioner shall in such notice prescribe.

"If and when a program of hospital, surgical and medical benefits is enacted by the federal government or the State, the extended health insurance benefits provided by policies issued under this section shall be adjusted to avoid any duplication of benefits offered by the federal or state programs and the premium rates applicable thereto shall be adjusted to conform with the adjusted benefits.

"The association shall submit an annual report to the commissioner which shall become public information and shall provide information as to the number of persons insured, the names of the insurers participating in the association with respect to insurance offered under

this section and the calendar year experience applicable to such insurance offered under this section, including premiums earned, claims paid during the calendar year, the amount of claims reserve established, administrative expenses, commissions, promotional expenses, taxes, contingency reserve, other expenses, and profit and loss for the year. The commissioner shall require the association to provide any and all information concerning the operations of the association deemed relevant by him for inclusion in the report.

“(f) The articles of association of any association formed in accordance with this section, all amendments and supplements thereto, a designation in writing of a resident of this State as agent for the service of process, and a list of insurers who are members of the association and all supplements thereto shall be filed with the commissioner.

“The name of any association or any advertising or promotional material used in connection with extended health insurance to be sold, offered, or issued, pursuant to this section shall not be such as to mislead or deceive the public.

“(g) No act done, action taken or agreement made pursuant to the authority conferred by this section shall constitute a violation of or grounds for prosecution or civil proceedings under any other law of this State heretofore or hereafter enacted which does not specifically refer to insurance.”

SECTION 3. This Act shall take effect upon its approval.
(Approved May 8, 1965.) **H.B. 489.**