

## ACT 263

H.B. NO. 1528

A Bill for an Act Relating to Workers' Compensation Insurance.

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

SECTION 1. Section 431-693, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) All rates shall be made in accordance with the following provisions:
- (1) Due consideration shall be given to past and prospective loss experience within and outside this State, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses both countrywide and those specially applicable to this State, and to all other relevant factors within and outside this State[.];<sup>1</sup> including, without limitation of the foregoing, that in the case of workers' compensation insurance, due consideration shall be given to investment income earned or realized by insurers, including investment income earned from unearned premium and loss reserve funds.
  - (2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
  - (3) Risks may be grouped by classifications for the establishing of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
  - (4) Rates shall not be excessive, inadequate, or unfairly discriminatory.
  - (5) No insurer authorized to do business in this State shall issue any policy which provides or makes available to any risks preferred rates based upon any grouping of persons, firms, or corporations by way of membership, license, franchise, contract, agreement, or any other method or means, other than common majority ownership of such

risks, or except where a common stock ownership in and management control of such risks are held by the same person, corporation, or firm, or except where permitted or authorized by filings in existence as of January 1, 1957 under sections 431-691 to 431-707, as such filings may be amended from time to time, or except where otherwise expressly provided by law.”

SECTION 2. Section 431-694, Hawaii Revised Statutes, is amended to read as follows:

“§431-694 Rate filings. (a) Every insurer shall file with the insurance commissioner every manual of classifications, rules, and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of the casualty rating law, [he] the commissioner shall require the insurer to furnish the information upon which it supports the filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include:

- (1) The experience or judgment of the insurer or rating organization making the filing,
  - (2) Its interpretation of any statistical data it relies upon,
  - (3) The experience of other insurers or rating organizations, or
  - (4) Any other relevant factors.
- (b) A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(c) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf; provided, that nothing contained in the casualty rating law shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(d) Every filing made pursuant to this section in relation to workers' compensation insurance shall include a report of investment income.

[(d)] (e) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of the casualty rating law.

[(e)] (f) Subject to the exception specified in subsection [(f)] (g) of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if [he] the commissioner gives written notice within the waiting period to the insurer or rating organization which made the filing that [he needs] such additional time is needed for the consideration of such filing. Upon written application by the insurer or rating organization, the commissioner may authorize a filing which [he] has been 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 the casualty rating law unless disapproved by the commissioner within the waiting period or any extension thereof.

[(f)] (g) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule, or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of the casualty rating law until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

[(g)] (h) Under such rules and regulations as [he] the commissioner shall adopt the commissioner may, by written order, 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, rules, and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as [he] the commissioner may deem advisable to ascertain whether any rates affected by the order meet the standards set forth in section 431-693(a)(4).

[(h)] (i) Upon the written application of the insured, stating [his] the insured's reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

[(i)] (j) No insurer shall make or issue a contract or policy except in accordance with filings which are in effect for the insurer as provided in the casualty rating law or in accordance with subsection [(g) or (h)] (h) or (i) of this section.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 11, 1983.)

#### Note

1. Underscoring missing.