

ACT 189

S.B. NO. 2283

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 II of article 10 to be appropriately designated and to read as follows:

“§431:10- Commercial general liability extended reporting requirements. (a) Any policy for commercial general liability coverage wherein the insurer shall offer and the insured may elect to purchase an extended reporting period for claims arising during the expiring policy period shall provide that:

- (1) In the event of a cancellation, there shall be a thirty-day period during which the insured may elect to purchase coverage for the extended reporting period;

- (2) The limit of liability in the policy aggregate for the extended reporting period shall be one hundred per cent of the expiring policy aggregate; and
- (3) The insurer shall provide the following loss information to the first named insured within thirty days of the insured's request or upon any notice of cancellation or nonrenewal:
 - (A) All information on closed claims including the date and description of occurrence and amount of payments, if any;
 - (B) All information on open claims including the date and description of occurrence, amount of payment, if any, and amount of reserves, if any; and
 - (C) All information on notices of occurrence including the date and description of occurrence and amount of resources, if any."

SECTION 2. Section 431:2-301.8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No cause of action shall arise nor shall any liability be imposed against any examiner appointed or otherwise designated as an examiner by the commissioner for any statements made or conduct performed in good faith while carrying out the provisions of the insurance code."

SECTION 3. Section 431:2-306, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The commissioner may assess all examination costs of any person subject to examination under section 431:2-303(1) and article 16 when there is a premium trust fund shortage due to substantial noncompliance with section ~~431:9-230. The commissioner, subject to chapter 91, shall adopt rules to carry out the purposes of this subsection. The rules shall include criteria for the levying of examination assessment costs and specific criteria for appealing assessment costs levied by the commissioner.]~~ 431:9A-123.5."

SECTION 4. Section 431:3-201, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Every certificate of authority shall ~~[specify:]~~ include but not be limited to:

- (1) The name of the insurer ~~[, the location of its principal office,]~~ and the classes of insurance it is authorized to transact in this State; or
- (2) The name of and location of the principal office of its attorney-in-fact if a reciprocal insurer."

SECTION 5. Section 431:9A-122, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The licensee shall promptly notify the commissioner in writing of any change of business address."

SECTION 6. Section 431:9B-102, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) No person, firm, association, or corporation shall act as a reinsurance intermediary-broker in this State if the reinsurance intermediary-broker maintains an

office either directly or as a member or employee of a firm or association or as an officer, director, or employee of a corporation:

- (1) In this State, unless the reinsurance intermediary-broker is a licensed ~~[agent]~~ producer in this State; or
- (2) In another state, unless the reinsurance intermediary-broker is a licensed ~~[agent]~~ producer in this State or another state having a law substantially similar to this law, or such reinsurance intermediary-broker is licensed in this State as a nonresident reinsurance intermediary.”

2. By amending subsection (c) to read:

“(c) The commissioner shall require a reinsurance intermediary-manager subject to subsection (b) to:

- (1) File a bond from an insurance company licensed to do business within the State or with an insurance company approved by the commissioner in an amount equal to \$500,000 or ten per cent of the annual reinsurance premiums managed by the reinsurance intermediary-manager, whichever is greater, except that the bond amount under this paragraph shall not exceed \$10,000,000, for the protection of the reinsurer; ~~[and]~~
- (2) Maintain an errors and omissions policy, with an insurance company licensed to do business within the State or with an insurance company approved by the commissioner, in an amount equal to \$250,000 or twenty-five per cent of the annual reinsurance premiums managed by the reinsurance intermediary-manager, whichever is greater, except that the policy limits under this paragraph shall not exceed \$10,000,000[-]; and
- (3) Provide any other report required by the commissioner.

At the time of application for licensure and each renewal, each reinsurance intermediary-manager shall provide the commissioner with proof of the bond and the policy, and appropriate documentation to show that the bond and the policy ~~[continues]~~ continue to be in effect or that a new bond and a new policy ~~[has]~~ have been secured.”

SECTION 7. Section 431:9C-102, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The commissioner shall require the managing general agent to furnish a bond in an amount equal to \$100,000 or ten per cent of annual gross direct written premiums, whichever is greater, with an insurance company licensed to do business within the State or with an insurance company approved by the commissioner, for the protection of the insurer. Each managing general agent shall provide the commissioner with:

- (1) Proof of the bond at the time of the initial application for licensure; ~~[and]~~
- (2) Appropriate documentation at the time of each renewal to show that the bond continues to be in effect or that a new bond has been secured[-]; and
- (3) Any other report required by the commissioner.

(d) The commissioner shall require the managing general agent to maintain an errors and omissions policy in an amount equal to \$1,000,000 or twenty-five per cent of annual gross direct written premiums, whichever is greater, with an insurance company licensed to do business within the State or an insurance company approved by the commissioner. Each managing general agent shall provide the commissioner with:

- (1) Proof of the policy at the time of the initial application for licensure; ~~[and]~~

- (2) Appropriate documentation at the time of each renewal to show that the policy continues to be in effect or that a new policy has been secured[-];
and
 (3) Any other report required by the commissioner.”

SECTION 8. Section 431:11-104.3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The preacquisition notification shall be in such form and contain such information as prescribed by the National Association of Insurance Commissioners, including information relating to those markets in which the acquisition would not be exempted pursuant to section 431:11-104.2(b)(5). The commissioner may require such additional material and information as the commissioner deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of section 431:11-104.4. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this State accompanied by a summary of the education and experience indicating that economist’s ability to render an informed opinion.”

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 10. This Act shall take effect on July 1, 2006.

(Approved June 14, 2006.)

Note

1. Edited pursuant to HRS §23G-16.5.