

ACT 199

H.B. NO. 2208

A Bill for an Act Relating to Association Health Plans.

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 10A to be appropriately designated and to read as follows:

“§431:10A- Association health plan policy; compliance with state law.

(a) Every association health plan policy issued in this State shall comply with all laws of this State, regardless of the domicile of the association that has issued the policy.

(b) For the purposes of this section, “association health plan policy” means a policy issued by a voluntary association of employers formed in this State or another state that is authorized to issue association health plans under the regulations of the United States Department of Labor.”

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

“§431:10A- Association health plan policy; compliance with state law.

(a) Every association health plan policy issued in this State shall comply with all laws of this State, regardless of the domicile of the association that has issued the policy.

(b) For the purposes of this section, “association health plan policy” means a policy issued by a voluntary association of employers formed in this State or another state that is authorized to issue association health plans under the regulations of the United States Department of Labor.”

SECTION 3. Section 431:3-203, Hawaii Revised Statutes, is amended to read as follows:

“§431:3-203 Qualifications for authority. (a) To qualify for and hold a certificate of authority, an insurer ~~[must:]~~ shall:

- (1) Be [a] one of the following:
- (A) A stock, mutual, or reciprocal insurer of the same general type as may be formed as a domestic insurer under article 4;
 - (B) A voluntary unincorporated association formed for the purpose of enabling cooperative action to provide accident and health or sickness insurance, as defined under section 431:1-205, in accordance with this chapter or the laws of any other state that authorizes the issuance of accident and health or sickness insurance of the type authorized under this chapter;
or
 - (C) A voluntary association of employers formed in this State or another state that is authorized to issue association health plans under the regulations of the United States Department of Labor;
- (2) Have capital funds as required by this code based upon the type and domicile of the insurer and the classes of insurance [~~which~~] that the insurer is authorized to transact in its domicile;
- (3) Transact or propose to transact in this State insurances [~~which~~] that are among those authorized by its charter, and only such insurance as meets the standards and requirements of this code; and
- (4) Fully comply with and qualify according to the provisions of this code.
- (b) In addition to the requirements in subsection (a), to qualify for and hold a certificate of authority, foreign and alien insurers must have continuously, actively, and successfully transacted the business of insurance for at least five years immediately prior thereto; provided that [~~in~~]:
- (1) In the case of a reorganization (including a merger, corporate acquisition, or formation of a subsidiary) of a capital stock or mutual insurer, the five-year period shall be computed from the date of the organization of the original or parent insurer or insurers if substantially the same management continues~~[-]; and~~
 - (2) This subsection shall not apply to a voluntary association of employers authorized to issue association health plans under the regulations of the United States Department of Labor.”

SECTION 4. Section 431:8-201, Hawaii Revised Statutes, is amended to read as follows:

“§431:8-201 Transacting insurance business without certificate of authority prohibited. It shall be unlawful for any insurer to transact an insurance business in this State, as defined in section 431:1-215, without a certificate of authority; provided that this section shall not apply to:

- (1) The lawful transaction of surplus lines insurance;
- (2) The lawful transaction of reinsurance by insurers;
- (3) Transactions in this State involving a policy lawfully solicited, written, and delivered outside of this State covering only subjects of insurance not resident, located, or expressly to be performed in this State at the time of issuance, and subsequent to the issuance of the policy;
- (4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses;
- (5) Transactions in this State involving group life and group accident and health or sickness or blanket accident and health or sickness insurance or group annuities where the master policy of the groups

was lawfully issued in and delivered pursuant to the laws of a state in which the insurer was authorized to do an insurance business; provided that this paragraph shall not apply to transactions of association health plans;

- (6) Transactions in this State involving any policy of insurance or annuity contract issued prior to July 1, 1988;
- (7) Transactions in this State involving ocean marine insurance; and
- (8) Transactions of contracts of insurance for property and casualty multi-state risks; provided that the producer is licensed to sell, solicit, or negotiate that insurance in the home state of the insured.”

SECTION 5. The insurance commissioner shall revise or adopt, as necessary, any forms that may be required for implementation of this Act no later than January 1, 2019.

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 8. This Act shall take effect on July 1, 2018; provided that sections 1 through 4 shall take effect on January 1, 2019.

(Approved July 10, 2018.)

Note

- 1. Edited pursuant to HRS §23G-16.5.