

TITLE 16

DEPARTMENT OF REGULATORY AGENCIES

CHAPTER 5

MASS MERCHANDISING OF [MOTOR VEHICLE] INSURANCE

Subchapter 1 General Provisions

- §16-5-1 Purpose
- §16-5-2 Establishment and maintenance of office
- §16-5-3 Scope of mass merchandising

Subchapter 2 Mass Merchandising Requirements

- §16-5-4 Termination of agreement or employment
- §16-5-5 Evidence of participation

Subchapter 3 Premium Rates, Underwriting Standards, and Statistics

- §16-5-6 Premium rates
- §16-5-7 Statistics

Historical Note: Chapter 5 of title 16, Administrative Rules, is based substantially upon Chapter 6, title V, Department of Regulatory Agencies, entitled "Mass Merchandising of Motor Vehicle Insurance." [Eff 12/9/72; R 6/22/81]

SUBCHAPTER 1

GENERAL PROVISIONS

§16-5-1 Purpose. The purpose of this chapter is to prescribe rules to prevent abuses in connection with the sale of motor vehicle insurance in the State of Hawaii pursuant to mass merchandising plans, while preserving for consumers the potential benefits of this form of merchandising. [Eff 6/22/81] (Auth: HRS §§431:2-201, 431:12-116) (Imp: HRS §§431:1-102, 431:12-103, 431:12-116)

§16-5-2 Establishment and maintenance of office. (a) Establishment and maintenance of an office by any licensed general agent of an insurer shall meet the requirement of section 431-764, HRS.

(b) Independent adjusters licensed in this State may handle claims on behalf of insurers authorized to do business in the State of Hawaii. [Eff 6/22/81] (Auth: HRS §§431:2-201, 431:12-116) (Imp: HRS §§431:12-115, 431:12-116)

§16-5-3 Scope of mass merchandising. Only a private passenger motor vehicle as defined in section 431-751, HRS, is eligible for mass merchandising providing motor vehicle liability, medical payment, uninsured motorists, and physical damage insurance coverages. [Eff 6/22/81] (Auth: HRS §§431:2-201, 431:12-116) (Imp: HRS §§431:12-101, 431:12-102, 431:12-116)

SUBCHAPTER 2

MASS MERCHANDISING REQUIREMENTS

§16-5-4 Termination of agreement, or employment or membership. Upon the termination of a mass merchandising agreement, or upon the termination of an insured's employment or membership, the insured employee or member shall have the option to continue to be insured for a period of one year, subject to the following:

- (1) The period of one year shall start from the date of termination of the agreement, employment or membership;
- (2) The insured employee or member shall exercise the employee or member's option and pay the applicable premium within thirty days from the date of termination;
- (3) The terms, conditions, and coverages for the one year period are those that are effective on the date of termination and shall not be more restrictive than those contained in the mass merchandising agreement, the group policy, or the individual policy in force immediately prior to the date of termination; and
- (4) The applicable premium shall be calculated on the basis of the premium which was in effect on the date of termination for the territory, rating classifications, and any other rating factors applicable to the insured employee or member. [Eff 6/22/81] (Auth: HRS §§431:2-201, 431:12-116) (Imp: HRS §§431:12-105, 431:12-116)

§16-5-5 Evidence of participation. The insurer shall issue a policy of insurance to every employee or member insured under an individual policy, a certificate or other evidence of participation to every employee or member insured under a group policy. A group policy certificate or other evidence shall set forth all pertinent information pertaining to coverage, effective date, premium, exclusions, and conditions. [Eff 6/22/81] (Auth: HRS §§431:2-201, 431:12-116) (Imp: HRS §§431:12-105, 431:12-116)

SUBCHAPTER 3

PREMIUM RATES, UNDERWRITING STANDARDS AND STATISTICS

§16-5-6 Premium rates. (a) In addition to complying with section 431-693, HRS, premium rates for private passenger motor vehicle insurance sold on a mass merchandising basis shall comply with all other provisions of law applicable to motor vehicle insurance premium rates.

- (b) Rates shall not be deemed to be unfairly discriminatory:
 - (1) Because of different policyholders' premiums resulting from different loss exposures or expense factors so long as the rates reflect the differences with reasonable accuracy;
 - (2) If an insurer issues different mass merchandising plans with different premiums based on different loss and expense factors, provided the rates reflect the differences with reasonable accuracy. However, commission allowances shall not be arbitrarily reduced and variations in expense factors shall be validly supported;
 - (3) If rates are averaged broadly among persons insured under a mass merchandising plan. [Eff 6/22/81] (Auth: HRS §§431:2-201, 431:12-116) (Imp: HRS §§431:12-110, 431:12-116)

§16-5-7 Statistics. In addition to the recording and reporting of loss and expense experience to any statistical gathering organization designated by the commissioner pursuant to section 431-703, HRS, insurers are required to keep, maintain, and report experience data under each plan in such form or forms as the insurance commissioner may prescribe from time to time. The insurance commissioner may audit every motor vehicle insurance mass merchandising plan. [Eff 6/22/81] (Auth: HRS §§431:2-201, 431:12-116) (Imp: HRS §§431:12-112, 431:12-113, 431:12-116, 12-112, 431:12-113)

DEPARTMENT OF REGULATORY AGENCIES

Chapter 5, Mass Merchandising of Motor Vehicle Insurance Rules of Practice and Procedure, on the Summary Page dated May 28, 1981 was adopted on May 28, 1981 following a public hearing held on May 28, 1981, after public notice was given in the Honolulu Star-Bulletin on May 8, 1981.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Mary G.F. Bitterman
MARY G.F. BITTERMAN
Director of Regulatory Agencies

APPROVED AS TO FORM:

/s/ Alan T. Shimabukuro
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/s/ George R. Ariyoshi
GEORGE R. ARIYOSHI
Governor
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Date: June 10, 1981

June 12, 1981

Filed