§ 4236. Joint underwriting of group health insurance for persons aged sixty-five and over. (a) It is the concern of the legislature that many residents of this state of advanced years do not have readily available to them health insurance adequate to their needs. It is the legislature's intent to encourage and facilitate the writing of such insurance by private insurers on a non-profit group basis in order to make available to such persons broader coverage at lower rates than is possible on a regular commercial basis. It is, therefore, the purpose of the legislature to authorize and regulate, in the public interest, cooperative action among such insurers in the preparation and issuance of policies of health insurance, the making of rates to be charged therefor and other matters within the scope of this section.

(b) In this section, unless the context otherwise requires,

(1) "Association" means a voluntary unincorporated non-profit association formed for the sole purpose of enabling cooperative action to provide health insurance in accordance with this section.

(2) "Health insurance" means hospital, surgical and medical expense insurance, provided by a group health insurance policy or contract issued in accordance with this section.

(3) "Insurer" means any insurance company authorized to do the business of accident and health insurance in this state.

(4) "Insured" means a person covered under a group policy or contract issued pursuant to this section.

(c) (1) Notwithstanding any other provision of this chapter or of any other law which may be inconsistent herewith, any insurer may join with one or more other insurers, on a uniform basis with respect to premium rates, policy provisions, commissions and other matters within the scope of this section, to offer, sell and issue to a policyholder group health insurance covering residents of this state who are sixty-five years of age or older and the spouses of such residents.

(2) Such insurance may also cover an employer's non-resident employees and non-resident retired employees sixty-five years of age or older and their spouses, provided such employees are regularly employed within this state or were so employed at the time of their retirement.

(3) Such insurance may be offered, issued and administered jointly by two or more such insurers through an association formed by such insurers solely for the purpose of offering, selling, issuing and administering

such insurance in accordance with this section. Membership in such association shall be open to any insurer.

(d) (1) Such association shall offer health insurance coverage to all residents of this state who are sixty-five years of age or over and their spouses, subject to reasonable underwriting restrictions to be set forth in the plan of the association.

(2) Such coverage may consist of one or more of the following types: (i) basic hospital and surgical coverage, (ii) basic medical coverage, (iii) major medical coverage, and any combination of those types; provided, however, that if coverage of the first or second type is offered, it shall not be required as a condition of obtaining same that coverage of the third type also be obtained.

(e) (1) Such association shall file with the superintendent its plan for offering, selling, issuing and administering health insurance which plan shall be subject to his approval as conforming to the purpose and requirements of this section, and any policy, contract, certificate or other evidence of insurance, application or other forms pertaining to such insurance together with the premium rates to be charged therefor.

(2) 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 and the premium rates to be charged therefor shall have been approved by the superintendent.

(3) The superintendent shall, within a reasonable time after the filing of any such premium rates, policies, contracts, endorsements, applications or other forms, notify the association filing the same of his approval or disapproval thereof.

(4) The superintendent may disapprove such premium rates if he finds them to be unfairly discriminatory or unreasonable in relation to the benefits provided and he may disapprove such policies, contracts, certificates, applications, endorsements or other forms if in his judgment they contain provisions which he finds to be unjust, unfair, inequitable, misleading, deceptive, prejudicial to the insured or otherwise contrary to law or to the public policy of this state.

(5) The superintendent may, after notice and hearing, withdraw an approval previously given, if the use thereof is contrary to the legal requirements applicable thereto at the time of such withdrawal, or the

premiums are unfairly discriminatory or unreasonable in relation to the benefits provided, or in his judgment they contain provisions which are, or the continued use thereof would be, unjust, unfair, inequitable, misleading, deceptive, prejudicial to the insured or otherwise contrary to law or to the public policy of this state. Any such withdrawal of approval shall be effective at the expiration of such period, not less than ninety days after the giving of notice of withdrawal, as the superintendent shall in such notice prescribe.

(6) In exercising the powers conferred upon him by this subsection the superintendent shall not be bound by any other requirement of this chapter with respect to standard provisions to be included in accident and health policies or forms.

(7) The name of such association or any advertising and other promotional and solicitation material used in connection with health insurance offered, sold or delivered pursuant to this section shall not be such as to mislead or deceive the public.

(f) Such association may solicit the sale of such health insurance through any insurance agent licensed pursuant to section two thousand one hundred three of this chapter and any insurance broker licensed pursuant to section two thousand one hundred four of this chapter. It shall not pay to such agent or broker or any other person any commission, compensation or other fee or allowance not in accordance with a schedule thereof which shall have been filed by it with and approved by the superintendent. Except as aforesaid, it shall not pay any commission, compensation, fee or allowance to any person but it may pay a salary or compensation to persons regularly employed by it.

(g) Such association shall file annually with the superintendent, on such date and in such form as he may prescribe, a statement with respect to its operations.

(h) Notwithstanding any other provision of this chapter, an association may offer, sell, issue or administer such a group policy or contract of health insurance on a non-participating basis, provided, however, that the excess, if any, of premiums received by it from insureds over the cost of providing such insurance benefits shall be used solely for the benefit of the insureds.

(i) Premiums for policies issued pursuant to this section shall not be included in "premiums" for purposes of section five hundred fifty-two of

the former insurance law in effect immediately preceding the effective date of this chapter and former section one hundred eighty-seven of the tax law, nor shall section one thousand one hundred twelve of this chapter be construed as subjecting the premiums for such policies to taxation; nor shall such premiums be subject to any other tax imposed by any other governmental subdivision.