



GOV. MSG. NO. 762

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 28, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 28, 2008, the following bill was signed into law:

HB2224 HD1 SD2

A BILL FOR AN ACT RELATING TO INSURANCE.
(ACT 120)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:2-201.5, Hawaii Revised Statutes,
2 is amended to read as follows:

3 **"§431:2-201.5 Conformity to federal law.** (a) The
4 provisions of Title 42 United States Code section 300gg, et
5 seq., as they relate to group and individual health insurance
6 shall apply to title 24, except:

7 (1) Where state law provides greater health benefits or
8 coverage than Title 42 United States Code section
9 300gg, et seq., state law shall be applicable; and

10 (2) This section shall not apply to or affect life
11 insurance, endowment, or annuity contracts, or any
12 supplemental contract thereto, described in section
13 431:10A-101(4).

14 (b) The following definitions shall be used when applying
15 Title 42 United States Code section 300gg, et seq.:

16 "Employee" means an employee who works on a full-time basis
17 with a normal workweek of twenty hours or more.



1 "Group health issuer" means all persons offering health
2 insurance coverage to any group or association, but shall not
3 include those persons offering benefits exempted from Title I of
4 the Health Insurance Portability and Accountability Act of 1996,
5 P.L. 104-191 under sections 732(c) and 733(c) of Title I of the
6 Employee Retirement Income Security Act of 1974 and sections
7 2747 and 2791(c) of the Public Health Service Act.

8 "Qualifying event" means the date of issuance of a general
9 excise tax license, the loss of a job, a reduction in hours of
10 work, or the exhaustion of the federal Consolidated Omnibus
11 Budget Reconstruction Act continuation coverage that results in
12 a loss of health care coverage.

13 "Self-employed individual" means a person operating the
14 person's own business, whether as a sole proprietorship or in
15 any other legally recognized manner in which a person may
16 operate the person's own business, who has a general excise tax
17 license for that business, and who is registered or licensed by
18 the department of commerce and consumer affairs for that
19 business.

20 "Small employer" means an employer who employs between one
21 and no more than fifty employees.



1 (c) All group health issuers shall offer all small group
2 health plans to all small employers whose employees live, work,
3 or reside in the group health issuer's service areas; provided
4 that ~~[the]~~:

5 (1) The commissioner may exempt a group health issuer if
6 the commissioner determines that the group health
7 issuer does not have the capacity to deliver services
8 adequately to enrollees of additional groups given its
9 obligation to existing employer groups; and ~~[provided~~
10 ~~further that the]~~

11 (2) The commissioner ~~[shall]~~ may exempt from this
12 subsection group health plans offered to small
13 employers that employ only one employee, if the group
14 health issuer offers the small employer groups at
15 least one small group health plan that meets the
16 requirements of chapter 393, and upon the
17 determination by the commissioner that the group
18 health issuer has the capacity to adequately deliver
19 services to enrollees of the additional groups,
20 subject to its obligations to existing employer
21 groups.



1 (d) Subject to subsection (e)(1), beginning September 1,
2 2008, and annually thereafter, all group health issuers shall
3 offer small group health plans to self-employed individuals who
4 live, work, or reside in the group health issuer's service
5 areas; provided that the commissioner may exempt a group health
6 issuer if the commissioner determines that the group health
7 issuer does not have the capacity to deliver services adequately
8 to enrollees of additional groups given its obligation to
9 existing employer groups.

10 (e) Group health issuers may limit periods of enrollment
11 for self-employed individuals to a minimum of thirty calendar
12 days; provided that:

13 (1) Self-employed individuals who experience a qualifying
14 event shall enroll with a group health issuer within
15 thirty days of the qualifying event; and

16 (2) Group health issuers shall be allowed to impose a one-
17 year waiting period against self-employed individuals
18 who terminate coverage for any reason. If a self-
19 employed individual terminates coverage and a one-year
20 waiting period is imposed against the individual, a
21 group health issuer need not reenroll the individual



1 until the period of enrollment following the one-year
2 waiting period.

3 ~~(d)~~ (f) A group health issuer shall be prohibited from
4 imposing any preexisting condition exclusion.

5 ~~(e)~~ (g) The commissioner may adopt rules to implement,
6 clarify, or conform title 24 to Title 42 United States Code
7 section 300gg, et seq.

8 ~~(f)~~ (h) The adoption of the Health Insurance Portability
9 and Accountability Act of 1996, P.L. 104-191, for the purposes
10 of title 24 is not an adoption for any purposes for income taxes
11 under chapter 235.

12 ~~(g)~~ (i) The State shall have jurisdiction over any
13 matter that Title 42 United States Code section 300gg, et seq.,
14 permits, including jurisdiction over enforcement.

15 ~~(h)~~ (j) As used in this section, "small group health
16 plans" means the medical plans currently offered, advertised, or
17 marketed by a group health issuer for small employers."

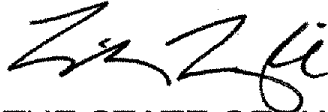
18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 3. This Act shall take effect on July 1, 2008, and
21 shall be repealed on July 1, 2013.



H.B. NO. 2224
H.D. 1
S.D. 2

APPROVED this 28 day of MAY, 2008



GOVERNOR OF THE STATE OF HAWAII