



GOV. MSG. NO. 797

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 9, 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 June 9, 2008, the following bill was signed into law:

HB2255 HD2 SD2 CD1

A BILL FOR AN ACT RELATING TO LIFE
INSURANCE.
(ACT 155)

Sincerely,

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

LINDA LINGLE

Approved by the Governor

on JUN 9 2008

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

ACT 155

H.B. NO.

2255
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO LIFE INSURANCE.

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

1 SECTION 1. The purpose of this Act is to amend Hawaii's
2 life insurance and annuity statutes to conform to model acts and
3 regulations of the National Association of Insurance
4 Commissioners relating to employee group life insurance policies
5 and the replacement of life insurance policies and annuities.

6 SECTION 2. Section 431:10D-202, Hawaii Revised Statutes,
7 is amended by amending subsection (b) to read as follows:

8 "(b) Issuance of group life insurance policies shall be
9 subject to the following requirements:

10 (1) The employees eligible for insurance under the policy
11 shall be all of the employees of the employer, or all
12 of any class or classes thereof determined by
13 conditions pertaining to their employment. The policy
14 may provide that the term employees shall include:

15 (A) The employees of one or more subsidiary
16 corporations, and the employees, individual
17 proprietors, and partners of one or more
18 affiliated corporations, proprietorships, or



1 partnerships, if the business of the employer and
2 of such affiliated corporations, proprietorships,
3 or partnerships is under common control;

4 (B) The individual proprietor or partners, if the
5 employer is an individual proprietor or a
6 partnership; and

7 (C) Retired employees.

8 No director of a corporate employer shall be eligible
9 for insurance under the policy unless such person is
10 otherwise eligible as a bona fide employee of the
11 corporation by performing services other than the
12 usual duties of a director. No individual proprietor
13 or partner shall be eligible for insurance under the
14 policy unless the individual is actively engaged in
15 and devotes a substantial part of the individual's
16 time to the conduct of the business of the
17 proprietorship or partnership;

18 (2) The premium for the policy ~~[shall be paid either:~~

19 ~~(A) wholly from the employer's fund or funds
20 contributed by the employer; or~~

21 ~~(B) partly from such funds and partly from funds
22 contributed by the insured employees.~~



1 ~~No policy may be issued on which the entire premium is~~
2 ~~to be derived from funds contributed by the insured~~
3 ~~employees. A policy on which part of the premium is~~
4 ~~to be derived from funds provided in accordance with~~
5 ~~subparagraph (B) may be placed in force only if at~~
6 ~~least seventy five per cent of the then eligible~~
7 ~~employees, excluding any as to whom evidence of~~
8 ~~insurability is not satisfactory to the insurer, elect~~
9 ~~to make the required contributions.] may be paid~~
10 entirely by the employer, or by funds paid entirely by
11 the insured employees, or by funds contributed by both
12 the employer and the insured employees. Except as
13 provided in paragraph (3), a policy on which no part
14 of the premium is to be derived from funds contributed
15 by the insured employees shall insure all eligible
16 employees, except those who reject such coverage in
17 writing;

18 (3) An insurer may exclude or limit the coverage on any
19 person as to whom evidence of individual insurability
20 is not satisfactory to the insurer;

21 [~~4~~] ~~The policy shall cover at least ten employees at date~~
22 ~~of issue,] and~~



1 ~~(+5)~~ (4) The amounts of insurance under the policy shall
2 be based upon some plan precluding individual
3 selection either by the ~~[employees]~~ employer~~[r]~~ or
4 trustees."

5 SECTION 3. Section 431:10D-212, Hawaii Revised Statutes,
6 is amended by amending subsection (a) to read as follows:

7 "(a) Except for a policy issued under sections 431:10D-203
8 and 431:10D-211, insurance under any group life insurance policy
9 issued pursuant to this article may be extended to insure the
10 employees or members of such groups against loss due to the
11 death of their spouses and dependent children subject to the
12 following:

13 (1) The spouse and dependent of the individual insured may
14 be covered in amounts of insurance equivalent to the
15 amount of coverage of the insured individual~~[r]~~
16 ~~provided that in the case of a dependent other than a~~
17 ~~spouse of the insured individual the amount of~~
18 ~~insurance for the dependent shall not be in excess of~~
19 ~~fifty per cent of the coverage of the insured~~
20 ~~individual or \$5,000, whichever is less, and provided~~
21 ~~further that in the case of a dependent whose age at~~



1 ~~death is under six months, the amount shall not be in~~
2 ~~excess of \$2,000];~~

3 (2) The premiums for the insurance of the spouse or
4 dependent shall be paid either from funds contributed
5 by the employer, union, association or other person to
6 whom the policy has been issued, or from funds
7 contributed by the individual insured, or from both;
8 and

9 (3) An insurer may exclude or limit the coverage on any
10 spouse or dependent child as to whom evidence of
11 individual insurability is not satisfactory to the
12 insurer."

13 SECTION 4. Section 431:10D-501, Hawaii Revised Statutes,
14 is amended by amending subsection (b) to read as follows:

15 "(b) Unless otherwise specifically included, this part
16 shall not apply to transactions involving:

17 (1) Credit life insurance;

18 (2) Group life insurance or group annuities where there is
19 no direct solicitation of individuals by an insurance
20 producer. Direct solicitation shall not include any
21 group meeting held by an insurance producer solely for
22 the purpose of educating or enrolling individuals when



1 initiated by an individual member of the group
2 assisting with the selection of investment options
3 offered by a single annuity provider in connection
4 with enrolling the individuals. Group life insurance
5 or group annuity certificates marketed through direct-
6 response solicitation shall be subject to section
7 431:10D-507;

8 (3) Group life insurance used to fund prearranged funeral
9 contracts;

10 (4) An application to the existing insurer that issued the
11 existing policy or contract when a contractual change
12 or a conversion privilege is being exercised; or, when
13 the existing policy or contract is being replaced by
14 the same insurer pursuant to a program filed with and
15 approved by the commissioner; or, when a term
16 conversion privilege is exercised among corporate
17 affiliates;

18 (5) Proposed life insurance that is to replace life
19 insurance under a binding or conditional receipt
20 issued by the same company;

21 (6) Policies or contracts used to fund:



1 (A) An employee pension or welfare benefit plan that
2 is covered by the Employee Retirement and Income
3 Security Act (ERISA);

4 (B) A plan described by sections 401(a), 401(k) or
5 403(b) of the Internal Revenue Code of 1986, as
6 amended, where the plan, for purposes of ERISA,
7 is established or maintained by an employer;

8 (C) A governmental or church plan defined in section
9 414 of the Internal Revenue Code of 1986, as
10 amended, a governmental or church welfare benefit
11 plan, or a deferred compensation plan of a state
12 or local government or tax exempt organization
13 under section 457 of the Internal Revenue Code of
14 1986, as amended; or

15 (D) A nonqualified deferred compensation arrangement
16 established or maintained by an employer or plan
17 sponsor;

18 provided that, notwithstanding the exemptions listed
19 in subparagraphs (A) to (D), this part shall apply to
20 policies or contracts used to fund any plan or
21 arrangement that is funded solely by contributions an
22 employee elects to make, whether on a pre-tax or



1 after-tax basis, and where the insurance company has
2 been notified that plan participants may choose from
3 among two or more annuity providers or policy
4 providers and there is a direct solicitation of an
5 individual employee by an insurance producer for the
6 purchase of a contract or policy. As used in this
7 subsection, direct solicitation shall not include any
8 group meeting held by an insurance producer solely for
9 the purpose of educating individuals about the plan or
10 arrangement or enrolling individuals in the plan or
11 arrangement or, when initiated by an individual
12 employee assisting with the selection of investment
13 options offered by a single annuity provider in
14 connection with enrolling that individual employee;

15 (7) Where new coverage is provided under a life insurance
16 policy or contract and the cost is borne wholly by the
17 insured's employer or by an association of which the
18 insured is a member;

19 (8) Existing life insurance that is a non-convertible term
20 life insurance policy that will expire in five years
21 or less and cannot be renewed;



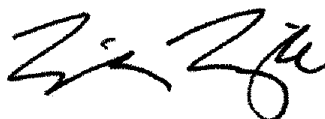
1 (9) Immediate annuities that are purchased with proceeds
2 from an existing contract; provided that immediate
3 annuities purchased with proceeds from an existing
4 policy are not exempted from the requirements of this
5 part; and

6 (10) Structured settlements."

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 9 day of JUN , 2008



GOVERNOR OF THE STATE OF HAWAII

