

JAN 23 2008

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# 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]. Except as~~  
10          provided in paragraph (3), a policy on which no part  
11          of the premium is to be derived from funds contributed  
12          by the insured employees shall insure all eligible  
13          employees, except those who reject such coverage in  
14          writing; and

15          (3) An insurer may exclude or limit the coverage on any  
16          person as to whom evidence of individual insurability  
17          is not satisfactory to the insurer[~~+~~

18          ~~(4) The policy shall cover at least ten employees at date~~  
19          ~~of issue; and~~

20          ~~(5) The amounts of insurance under the policy shall be~~  
21          ~~based upon some plan precluding individual selection~~  
22          ~~either by the employees, employer, or trustees]."~~



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

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

9 (1) The spouse and dependent of the individual insured may  
10 be covered in amounts of insurance equivalent to the  
11 amount of coverage of the insured individual[~~r~~  
12 ~~provided that in the case of a dependent other than a~~  
13 ~~spouse of the insured individual the amount of~~  
14 ~~insurance for the dependent shall not be in excess of~~  
15 ~~fifty per cent of the coverage of the insured~~  
16 ~~individual or \$5,000, whichever is less, and provided~~  
17 ~~further that in the case of a dependent whose age at~~  
18 ~~death is under six months, the amount shall not be in~~  
19 ~~excess of \$2,000];~~

20 (2) The premiums for the insurance of the spouse or  
21 dependent shall be paid either from funds contributed  
22 by the employer, union, association or other person to



1           whom the policy has been issued, or from funds  
2           contributed by the individual insured, or from both;  
3           and

4           (3) An insurer may exclude or limit the coverage on any  
5           spouse or dependent child as to whom evidence of  
6           individual insurability is not satisfactory to the  
7           insurer."

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

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

12           (1) Credit life insurance;

13           (2) Group life insurance or group annuities where there is  
14 no direct solicitation of individuals by an insurance  
15 producer. Direct solicitation shall not include any  
16 group meeting held by an insurance producer solely for  
17 the purpose of educating or enrolling individuals when  
18 initiated by an individual member of the group  
19 assisting with the selection of investment options  
20 offered by a single annuity provider in connection  
21 with enrolling the individuals. Group life insurance  
22 or group annuity certificates marketed through direct-



- 1 response solicitation shall be subject to section  
2 431:10D-507;
- 3 (3) Group life insurance used to fund prearranged funeral  
4 contracts;
- 5 (4) An application to the existing insurer that issued the  
6 existing policy or contract when a contractual change  
7 or a conversion privilege is being exercised; or, when  
8 the existing policy or contract is being replaced by  
9 the same insurer pursuant to a program filed with and  
10 approved by the commissioner; or, when a term  
11 conversion privilege is exercised among corporate  
12 affiliates;
- 13 (5) Proposed life insurance that is to replace life  
14 insurance under a binding or conditional receipt  
15 issued by the same company;
- 16 (6) Policies or contracts used to fund:
- 17 (A) An employee pension or welfare benefit plan that  
18 is covered by the Employee Retirement and Income  
19 Security Act (ERISA);
- 20 (B) A plan described by sections 401(a), 401(k) or  
21 403(b) of the Internal Revenue Code of 1986, as



1                   amended, where the plan, for purposes of ERISA,  
2                   is established or maintained by an employer;

3           (C) A governmental or church plan defined in section  
4           414 of the Internal Revenue Code of 1986, as  
5           amended, a governmental or church welfare benefit  
6           plan, or a deferred compensation plan of a state  
7           or local government or tax exempt organization  
8           under section 457 of the Internal Revenue Code of  
9           1986, as amended; or

10          (D) A nonqualified deferred compensation arrangement  
11           established or maintained by an employer or plan  
12           sponsor;

13           provided that, notwithstanding the exemptions listed  
14           in subparagraphs (A) to (D), this part shall apply to  
15           policies or contracts used to fund any plan or  
16           arrangement that is funded solely by contributions an  
17           employee elects to make, whether on a pre-tax or  
18           after-tax basis, and where the insurance company has  
19           been notified that plan participants may choose from  
20           among two or more annuity providers or policy  
21           providers and there is a direct solicitation of an  
22           individual employee by an insurance producer for the



- 1 purchase of a contract or policy. As used in this  
2 subsection, direct solicitation shall not include any  
3 group meeting held by an insurance producer solely for  
4 the purpose of educating individuals about the plan or  
5 arrangement or enrolling individuals in the plan or  
6 arrangement or, when initiated by an individual  
7 employee assisting with the selection of investment  
8 options offered by a single annuity provider in  
9 connection with enrolling that individual employee;
- 10 (7) Where new coverage is provided under a life insurance  
11 policy or contract and the cost is borne wholly by the  
12 insured's employer or by an association of which the  
13 insured is a member;
- 14 (8) Existing life insurance that is a non-convertible term  
15 life insurance policy that will expire in five years  
16 or less and cannot be renewed;
- 17 (9) Immediate annuities that are purchased with proceeds  
18 from an existing contract; provided that immediate  
19 annuities purchased with proceeds from an existing  
20 policy are not exempted from the requirements of this  
21 part; and
- 22 (10) Structured settlements."





1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

4

INTRODUCED BY: Buneez Kohli B/R



**Report Title:**

Life Insurance; NAIC

**Description:**

Eliminates insured employees as a source of funding the premiums for employee group life insurance policies. Eliminates requirement that the employee group life insurance policies must cover at least 10 employees at date of issue. Eliminates policy limits against loss due to death of a dependent other than the spouse of the insured employee under an employee group life insurance policy. Excludes from the applicability of laws relating to the replacement of life insurance policies and annuities the exercise among corporate affiliates of a term conversion privilege.

