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TO THE SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND AFFORDABLE HOUSING

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Tuesday, March 11, 2008
9:00 a.m.

TESTIMONY ON HOUSE BILL NO. 2255, H.D. 2 – RELATING TO LIFE INSURANCE.

TO THE HONORABLE RUSSELL KOKUBUN, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”),
testifying on behalf of the Department of Commerce and Consumer Affairs
(“Department”). The Department supports this bill with a suggested amendment.

The purpose of this version of the bill is to conform the Insurance Code with
model acts and regulations of the National Association of Insurance Commissioners
(“NAIC”) by amending the requirements for: (1) employee group life insurance policies
in Hawaii Revised Statutes (“HRS”) § 431:10D-202(b); (2) spouse and dependents of
insured individuals in HRS § 431:10D-212(a); and (3) replacement of life insurance
policies and annuities in HRS § 431:10D-501(b).

Specifically, this version of the bill: (1) allows the premium for an employee
group life insurance policy to be paid entirely by the employer, entirely by the insured
employees, or partly by both the employer and the insured employees; (2) deletes the
requirement that at least 75% of eligible employees elect participation in the employee
group insurance policy; (3) allows employee group policies to cover less than ten
employees at policy issuance, by eliminating the ten employee requirement; (4) amends

the provision precluding individual selection by the employees, employer, or trustees of amounts of insurance under an employee group insurance policy by deleting "employees"; (5) allows dependents of the insured employee to be insured up to the amount of coverage of the insured employee under an employee group insurance policy, by eliminating the express policy limits against loss due to death of a dependent (other than the spouse); and (6) adds the exercise of the term conversion privilege among corporate affiliates as an exclusion from the applicability of Article 10D governing the replacement of life insurance policies and annuities.

The Department supports the adoption of model acts and model regulations to promote uniformity of state insurance laws and to ease regulatory compliance for insurers transacting business across various states.

The provisions in HRS § 431:10D-202 are incorporated by reference and therefore also applicable to group disability insurance, pursuant to HRS § 431:10A-201. Therefore, the Department's comments also apply to employee group disability policies.

In reviewing the NAIC Group Life Insurance Definitions and Group Life Insurance Standard Provisions Model Act (October 2005) ("Model Act"), the Department agrees that the Model Act does not include the ten employee requirement and the 75% participation rate where there is partial employee contribution.

As currently drafted, section 2 of the bill on page 4, line 3 amends HRS § 431:10D-202(b)(4) by deleting the term "employees". The Department believes that the term "employer" should have been deleted, so as to preclude individual selection in a group insurance policy by the employer.

The current Model Act limits the death benefit of a group life policy to 50% of the insured individual's coverage on spouses and dependent children of the insured individual. Currently, HRS § 431:10D-212(a) does not impose a limitation on the death benefit of the spouse, but limits dependent coverage to the lesser of 50% of the insured individual's coverage or \$5,000. Since the limit is based on a fixed dollar amount, the value of the death benefit erodes over time. The Department takes no position on this amendment, as extending group policy benefits to the spouse and dependents constitutes a business decision for the employer.

The Department reviewed the Life Insurance and Annuities Replacement Model Regulation (October 2007) ("Model Regulation") and agrees that the Model Regulation includes an exception for the exercise of the term conversion privilege among corporate affiliates.

We thank this Committee for the opportunity to present testimony on this matter and respectfully request that the Committee pass an S.D. 1 that deletes "employer", rather than "employees".

Committee on Commerce, Consumer Protection & Affordable Housing
Senator Russell Kokubun, Chair

RE: House Bill 2255, HD 2 – Relating to Life Insurance

Hearing Date: March 11, 2008

Time: 9:00 am

Chair Kokubun and members of the Committee, my name is Cynthia Hayakawa, Executive Director of NAIFA (“National Association of Insurance and Financial Advisors”) Hawaii, an organization made up of life insurance agents and financial advisors.

We support HB 2255, HD2, and ask for your support in moving this measure forward.

This measure will update Chapter 431:10D-202, HRS, by amending sub section (b) -- regarding employee group life insurance policies. The amendments in this measure have been adopted by the NAIC’s Group Life Insurance Definition and Group Life Insurance Standard Provisions Model Act.

Amendments include the following:

- Allows for payment of group life insurance premiums to be paid by the employer, employee or by a combination of both employee and employer payments;
- Eliminates the 10 employees requirement to qualify for a group policy;
- Allow for spouse and dependents of the employee to purchase insurance equivalent to the insured employee’s amount of coverage;
- Eliminates the policy’s notice of replacement requirements for term life insurance conversion privilege among the corporate affiliates; the benefits in the term policy being converted will apply to the new policy which is beneficial to the policyholders.

This measure will update the Hawaii insurance code to allow employers and employees greater flexibility and added benefits in the purchase of group life insurance to better protect families financially.

Mahalo for allowing us to share our views.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN SUPPORT OF H.B. 2255, HD 2, RELATING TO LIFE INSURANCE

March 11, 2008

Senator Russell S. Kokubun, Chair
Committee on Commerce, Consumer Protection & Affordable Housing
State Senate
Hawaii State Capital, Conference Room 229
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Kokubun and Committee Members:

Our firm represents the American Council of Life Insurers (“ACLI”), a national trade association whose three hundred fifty-three (353) member companies account for 93% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred sixty-one (261) ACLI member companies currently do business in the State of Hawaii.

Thank you for the opportunity to testify in support of House Bill 2255, HD 2, relating to Life Insurance.

Hawaii Group Life Insurance Law

Background

Hawaii group life insurance law permits only group life policies where “the premium for the policy ... shall be paid either . . . wholly from the employer’s funds or funds contributed by the employer or . . . [p]artly from such funds and partly from funds contributed by the insured employees.” No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees.” §431:10D-202(b)(2), HRS. Hawaii law further requires that at least 75% of the eligible group member participate in the plan, that it insure 10 lives at date of issue in order for the insurance to be provided. These limitations are similar to ones that were contained in the Group Life Insurance Model Act developed by the National Association of Insurance Commissioners (NAIC) originally in the 1950’s. In the mid-1980s, however, the NAIC revised that Model Act to remove these two restrictions. Hawaii is among those few states that have not yet modernized its law to be consistent with these new provisions.

Current Group Life Insurance Trends and Legislation

Recent studies reveal a disturbing trend – many people lack adequate financial protection to provide for their dependents in the event of their premature death. In one survey, only 53% said they had any life insurance protection at all. Of those with insurance, 50% have coverage of no more than three years' worth of household income, which for most is not sufficient to provide for the family's financial needs. In a survey of those who had lost a spouse within the last five years, 65% described it as a "devastating" or "major" financial impact, from which half had not recovered financially even five years later.

As health insurance costs continue to rise, employer contributions to employee benefit plans are increasingly being directed towards medical coverage, leaving fewer employer dollars to subsidize other types of coverage. Restricting the ability of Hawaii employers to offer access to life insurance coverage at affordable group rates has only contributed further to the problems of the uninsured and underinsured.

For these reasons, ACLI supports House Bill 2255, HD 2, relating to Life Insurance, which amends Hawaii's group life insurance laws as follows:

1. The Bill repeals the minimum life requirement of 10 lives. As a result, the size of the group is permitted to be less than 10.
2. The Bill repeals the provision which prohibits the employees from paying the entire premium. The Bill would, therefore, allow the premiums to be paid entirely by the employer, entirely by the employee or from funds contributed by both the employer and employee.
3. The Bill repeals the requirement that the amount of insurance under the policy be based upon a plan which prohibits individual selection either by the employer or trustees. Repealing this requirement allows an employee to purchase the amount of insurance suitable for his or her needs – just as individuals do. For example, instead of having an employer choose an arbitrary death benefit of say \$35,000 for the entire group, the employee is permitted to choose a death benefit for himself of \$40,000. With this change in the law group policies are permitted to be more flexible by giving employees more choice of coverage.
4. The Bill repeals the current requirement that non-spouse dependent coverage be limited to 50% of the amount the employee is insured for.

Affect on Group Disability Insurance

Because the requirements for group life insurance also apply to eligible groups for group disability insurance policies under §431:10A-201(4), HRS, the favorable changes reflected in House Bill 2255, HD 2, will also apply to group disability insurance.

Hawaii's Replacement Regulation – Inter-Affiliate Term Conversions

The Bill also exempts Inter-Affiliate term conversions from Hawaii's Replacement of Life Insurance Policies and Annuities law set forth in §431:10D-501(b), HRS . This law incorporates the NAIC Life Insurance and Annuities Replacement Model Regulation ("Model Regulation"). The Model Regulation requires certain notice and disclosure requirements for replacements by one company to another and until recently, conversions from one corporate affiliate to another. In June 2006, the NAIC agreed to exempt inter-affiliate term conversions, along with intra-affiliate term conversions, from the Model Regulation.

Offering streamlined term conversions within a corporate family allows for a smooth transition from term ownership to the added protection and potential cash value accumulation in a permanent policy. There is no surrender charge, no loss of any cash value, no new contestability or suicide exclusion period and no additional underwriting. In addition, the new policy is fully illustrated for the consumer. Therefore, since these are essentially "internal" conversions among related companies the consumer is not disadvantaged by removing the additional and often confusing disclosure and paperwork required by the Model Regulation.

HB 2255, HD 2, therefore, exempts these "internal" term conversions from the notice and disclosure requirements mandated by the Model Regulation.

For the foregoing reasons, ACLI requests that this Committee pass House Bill 2255, HD 2, into law.

Again, thank you for giving us the opportunity to testify in support of House Bill 2255, HD 2.

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