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TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Wednesday, March 12, 2008
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 3245, S.D. 1 – RELATING TO LIFE
INSURANCE.**

TO THE HONORABLE ROBERT HERKES, 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 in part as stated below in further
detail.

The stated purpose of this 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 employee group life insurance
policy to be paid entirely by the employer, entirely by the insured employees, or by
funds contributed by both employer and insured employees; (2) deletes the requirement
that at least 75% of eligible employees elect participation in the employee group

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insurance policy; (3) allows employee group policies to cover less than ten employees at policy issuance, by eliminating the ten employee requirement; (4) deletes the provision precluding individual selection by the employees, employer, or trustees of amounts of insurance under an employee group insurance policy; (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 generally 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.

Although it is not in the Model Act, the provision prohibiting individual selection of amounts of insurance under the employee group life insurance policy is intended to prohibit discrimination by the employer or trustees within the class or classes of employees. The Department believes that the provision in paragraph (5) of HRS § 431:10D-202(b) on page 4, lines 1-3 should remain and not be deleted.

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 of an employee 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.

Therefore, the Department supports the amendments to: (1) HRS § 431:10D-202(b)(2) and (4) in section 2 of the bill; and (2) HRS § 431:10D-501(b)(4) in section 4 of the bill on page 6, lines 13-14. The Department opposes the amendments to HRS § 431:10D-202(b)(5) on page 4, lines 1-3 in section 2 of the bill. The Department takes no position on the amendment in section 3 of the bill.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

Via email transmittal

House Committee on Consumer Protection & Commerce
Representative Robert Herkes, Chair

RE: Senate Bill 3245, SD1 – Relating to Life Insurance

Hearing Date: March 12, 2008

Time: 2:00 PM

Chair Herkes 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 SB 3245, SD1 and ask for your approval in moving this measure forward.

This measure will update Chapter 431:10D-202, -212 and -501, HRS, 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 (this will allow for more flexibility in offering group rates to more employees)
- Allow for spouse and dependents of the employee to purchase insurance equivalent to the insured employee’s amount of coverage (currently spouse and dependents can only purchase up to one half of the insured employee’s 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.

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TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN SUPPORT OF S.B. 3245, SD 1, RELATING TO LIFE INSURANCE

March 12, 2008

Representative Robert N. Herkes, Chair
Committee on Consumer Protection and Commerce
State House of Representatives
Hawaii State Capital, Conference Room 325
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Herkes 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 Senate Bill 3245, SD 1, relating to Life Insurance.

Background

Hawaii group life insurance law permits only group life policies where "the premium...shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him or her, or partly 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 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 Senate Bill 3245, SD 1, relating to Life Insurance. Its provisions amend Hawaii's insurance laws so they are consistent with the current NAIC Model Act, and allow for group life insurance policies where the premium is paid by the employees without restrictions based on the level of participation, and the number of lives to be insured.

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 Senate Bill 3245, SD 1, will also apply to group disability insurance.

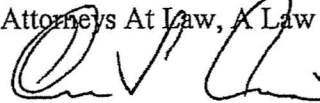
As drafted, sub-section (b)(5) of Section 2 of the bill deletes the provision under current law which precludes individual selection by the employee, employer, or trustee in the amount of coverage offered to members of the group. The intent of the bill was to allow employees to select for themselves the amount of insurance protection suitable to their needs and budget. However, the concern raised by the Insurance Commissioner was that the bill as drafted would enable the employer or trustee to make selectively provide more coverage available to one class of employees than another. To address this concern, ACLI suggests that the bill be amended as follows:

~~(5) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the employee, employer, or trustee.~~ (5) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the employer or trustee.

The proposed amendment would, thus, only preclude individual selection by the employer and trustee – not by the employees. This would allow employees to select their own insurance coverage suitable to their individual needs. It is ACLI's understanding that the Insurance Division supports this proposed amendment.

Again, thank you for giving us the opportunity to testify in support of Senate Bill 3245, SD 1.

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