

STAND. COM. REP. NO. 658

Honolulu, Hawaii

March 5, 2009

RE: H.B. No. 1075

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 1075 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose of this bill is update Article 10H of Chapter 431, Hawaii Revised Statutes, relating to long-term care insurance, to reflect amendments made by Act 233, Session Laws of Hawaii 2007, which among other things adopted the December 2006 Long-Term Care Insurance Model Regulation.

The Department of Commerce and Consumer Affairs and American Council of Life Insurers testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1075 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

HB1075 HSCR CPC HMS 2009-2476



Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ROBERT N. HERKES, Chair



A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. Section 431:10H-217.5, Hawaii Revised Statutes,
2 is amended by amending subsection (d) to read as follows:

3 "(d) An insurer shall use the forms in [~~Appendices~~]
4 Appendix B [~~and F~~] of the April[7] 2002, NAIC Model Long-Term
5 Care Insurance Model Regulation and Appendix F of the December
6 2006, NAIC Model Long-Term Care Insurance Model Regulation to
7 comply with the requirements of subsections (b) and (c)."

8 SECTION 2. Section 431:10H-226.5, Hawaii Revised Statutes,
9 is amended by amending subsection (b) to read as follows:

10 "(b) An insurer shall provide the information listed in
11 this subsection to the commissioner thirty days prior to making
12 a long-term care insurance form available for sale as follows:

13 (1) A copy of the disclosure documents required in section
14 [~~431:10H-221.7~~] 431:10H-217.5; and

15 (2) An actuarial certification consisting of at least the
16 following:

17 (A) A statement that the initial premium rate
18 schedule is sufficient to cover anticipated costs

H .B. NO. 1075

1 under moderately adverse experience and that the
2 premium rate schedule is reasonably expected to
3 be sustainable over the life of the form with no
4 future premium increases anticipated;

5 (B) A statement that the policy design and coverage
6 provided have been reviewed and taken into
7 consideration;

8 (C) A statement that the underwriting and claims
9 adjudication processes have been reviewed and
10 taken into consideration;

11 (D) A complete description of the basis for contract
12 reserves that are anticipated to be held under
13 the form, to include:

14 (i) Sufficient detail or sample calculations
15 provided so as to have a complete depiction
16 of the reserve amounts to be held;

17 (ii) A statement that the assumptions used for
18 reserves contain reasonable margins for
19 adverse experience;

20 (iii) A statement that the net valuation premium
21 for renewal years does not increase (except

1 for attained-age rating where permitted);
2 and
3 (iv) A statement that the difference between the
4 gross premium and the net valuation premium
5 for renewal years is sufficient to cover
6 expected renewal expenses; or if such a
7 statement cannot be made, a complete
8 description of the situations where this
9 does not occur; provided that an aggregate
10 distribution of anticipated issues may be
11 used so long as the underlying gross
12 premiums maintain a reasonably consistent
13 relationship; provided further that if the
14 gross premiums for certain age groups are
15 inconsistent with this requirement, the
16 commissioner may request a demonstration
17 under subsection (c) based on a standard age
18 distribution; and
19 (E) With respect to premium rate schedules:
20 (i) A statement that the premium rate schedule
21 is not less than the premium rate schedule
22 for existing similar policy forms also

1 available from the insurer except for
2 reasonable differences attributable to
3 benefits; or

4 (ii) A comparison of the premium schedules for
5 similar policy forms that are currently
6 available from the insurer with an
7 explanation of the differences."

8 SECTION 3. Section 431:10H-229, Hawaii Revised Statutes,
9 is amended by amending subsection (a) to read as follows:

10 "(a) Every insurer, health care service plan, or other
11 entity marketing long-term care insurance coverage in this
12 State, directly or through producers, shall:

13 (1) Establish marketing procedures to assure that any
14 comparison of policies by its producers will be fair
15 and accurate;

16 (2) Establish marketing procedures to assure excessive
17 insurance is not sold or issued;

18 (3) Display prominently by type, stamp, or other
19 appropriate means, on the first page of the outline of
20 coverage and policy the following:

21 "Notice to buyer: This policy may not cover all of
22 the costs associated with long-term care incurred by

1 the buyer during the period of coverage. The buyer is
2 advised to review carefully all policy limitations.";

3 (4) Inquire and otherwise make every reasonable effort to
4 identify whether a prospective applicant or enrollee
5 for long-term care insurance currently has long-term
6 care insurance and the types and amounts of any such
7 insurance, except that in the case of qualified long-
8 term care insurance contracts, an inquiry into whether
9 a prospective applicant or enrollee for long-term care
10 insurance has accident and sickness insurance is not
11 required;

12 (5) Every insurer or entity marketing long-term care
13 insurance shall establish auditable procedures for
14 verifying compliance with subsection (a);

15 (6) If the state in which the policy or certificate is to
16 be delivered or issued for delivery has a senior
17 insurance counseling program approved by the
18 commissioner, the insurer, at solicitation, shall
19 provide written notice to the prospective policyholder
20 or certificate holder of a state senior insurance
21 counseling program including the name, address, and
22 telephone number of the program;

- 1 (7) For long-term care health insurance policies and
2 certificates, use the terms "noncancellable" or "level
3 premium" only when the policy or certificate conforms
4 to section 431:10H-202;
- 5 (8) Provide copies of the disclosure forms required in
6 section 431:10H-217.5(c) to the applicant; and
- 7 (9) Provide an explanation of contingent benefit upon
8 lapse provided for in section 431:10H-233(f) ~~[-]~~ and,
9 if applicable, the additional contingent benefit upon
10 lapse provided to policies with fixed or limited
11 premium paying periods in section 431:10H-233(g)."

12 SECTION 4. Section 431:10H-233, Hawaii Revised Statutes,
13 is amended by amending subsection (o) to read as follows:

14 "(o) To determine whether contingent nonforfeiture upon
15 lapse provisions are triggered under subsection (f) ~~[-]~~ or (g), a
16 replacing insurer that [~~purchases~~] purchased or [~~assumes~~]
17 otherwise assumed a block or blocks of long-term care insurance
18 policies from another insurer shall calculate the percentage
19 increase based on the initial annual premium paid by the insured
20 when the policy was first purchased from the original insurer."

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

H.B. NO. 1075

1 SECTION 6. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:

Calvin K. Ray
BY REQUEST

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JAN 26 2009

Report Title:

Insurance; Long-Term Care Insurance

Description:

Updates references in Article 10H of the Insurance Code governing long-term care insurance.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.

PURPOSE: To update article 10H of the Insurance Code, chapter 431, Hawaii Revised Statutes (HRS), to reflect amendments made in Act 233, Session Laws of Hawaii 2007 by:

- (1) Updating the reference to Appendix F in section 431:10H-217.5(d) to refer to the December 2006 model regulation;
- (2) Changing the reference in section 431:10H-226.5(b)(1) to correctly refer to section 431:10H-217.5;
- (3) Updating section 431:10H-229(a)(9) to include a reference to section 431:10H-233(g); and
- (4) Adding appropriate wording to section 431:10H-233(o).

MEANS: Amend sections 431:10H-217.5(d), 431:10H-226.5(b), 431:10H-229(a), and 431:10H-233(o), HRS.

JUSTIFICATION: Act 233, Session Laws of Hawaii 2007 (Act 233), adopted the December 2006 Long-Term Care Model Regulation. This bill updates various provisions of article 10H for housekeeping purposes only.

Impact on the public: This bill will make the insurance statutes governing long-term care insurance more understandable, technically correct, and consistent.

Impact on the department and other agencies: These amendments will reduce confusion and inefficiency in implementing Hawaii law.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-106.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: July 1, 2009.



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

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DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE
& CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Friday, March 27, 2009
10:00 a.m.

TESTIMONY ON HOUSE BILL NO. 1075 – RELATING TO INSURANCE.

TO THE HONORABLE ROSALYN BAKER, 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 strongly supports this Administration bill.

With the aging of Hawaii’s population, it is very important to have proper laws so
that long-term care insurance is available to our seniors.

Act 233, Session Laws of Hawaii 2007 (“Act 233”) adopted the December 2006
Long-Term Care Model Regulation. This bill updates various provisions of Article 10H
of the Insurance Code, Hawaii Revised Statutes (“HRS”) chapter 431, governing long-
term care, for clarification purposes only by:

- (1) Updating the reference to Appendix F in HRS § 431:10H-217.5(d) to refer
to the December 2006 model regulation;
- (2) Changing the reference shown in HRS § 431:10H-226.5(b)(1) to section
431:10H-217.5;
- (3) Updating the reference in HRS § 431:10H-229(a)(9) to include section
431:10H-233(g); and

(4) Adding appropriate language to HRS § 431:10H-233(o).

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

AMERICAN COUNCIL OF LIFE INSURERS
TESTIMONY IN SUPPORT OF HB 1075
RELATING TO INSURANCE

March 27, 2009

Via E Mail: cpntestimony@capitol.hawaii.gov

Hon. Senator Rosalyn H. Baker, Chair
Committee on Commerce and Consumer Protection
State Senate
Hawaii State Capital, Conference Room 229
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Baker and Committee Members:

Thank you for the opportunity to testify in support of HB 1075, relating to Insurance.

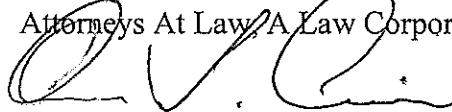
Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred forty (340) member company's account for 94% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred fifty-three (253) ACLI member companies currently do business in the State of Hawaii.

ACLI generally supports legislation that conforms to uniform national standards.

ACLI supports HB 1075 which updates Article 10H of the Insurance Code to reflect amendments made in 2007 under Act 233, which conformed Hawaii's long term care laws to the December 2006 Long-Term Care Model Regulation.

Again, thank you for this opportunity to testify in support of HB 1075.

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, A Law Corporation



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