



GOV. MSG. NO. 792

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 6, 2009

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB690 HD2 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB690 HD2 SD2 CD1

A BILL FOR AN ACT  
RELATING TO INSURANCE.

Sincerely,

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

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2009

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 690

Honorable Members  
Twenty-Fifth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 690, entitled "A Bill for an Act Relating to Insurance."

The purpose of this bill is to require all health insurers and employers who provide coverage to any regular employees in any group or association to offer the same coverage to part-time employees (persons working at least fifteen but less than twenty hours per week for at least eighteen months) of that employer.

This bill is objectionable because portions of the bill are preempted by the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001, et seq., because they relate to an employee welfare benefit plan regulated by ERISA. ERISA supersedes state laws that relate to employee benefit plans.

Portions of this measure reference family coverage offered to regular workers by a group or association, i.e., an employer. This bill provides that the group or association "shall offer the same family coverage to part-time employees." The coverage offered to the regular employees is an employee welfare benefit plan per ERISA. The bill also imposes certain duties upon the employer regarding enrollment, premiums, and payments.

The health insurance coverage that the bill requires employers to provide for part-time employees is measured by

STATEMENT OF OBJECTIONS  
HOUSE BILL NO. 690  
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reference to the existing health insurance coverage for regular employees and would be equivalent thereto. Employer-sponsored health insurance programs are subject to ERISA regulation and any state law imposing requirements by reference to such covered programs is preempted by ERISA.

For the foregoing reasons, I am returning House Bill No. 690 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE  
Governor of Hawaii

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## A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding a new section to article 10A to be  
3 appropriately designated and to read as follows:  
4           "§431:10A-       Group health care coverage; part-time  
5 employees. (a) An insurer that provides health care coverage  
6 in this state to the regular employees of any group or  
7 association shall offer the same coverage to part-time employees  
8 of that group or association. If the group or association  
9 offers family coverage as defined in section 431:10A-103 to its  
10 regular employees, it shall offer the same family coverage to  
11 part-time employees. The group or association shall not be  
12 required by this section to pay any part of the premium for  
13 coverage of part-time employees. The group or association shall  
14 be responsible for any administrative duties required for the  
15 enrollment of part-time employees such as monitoring  
16 eligibility, collecting premiums, and transmitting payment to  
17 the insurer.



1        (b) A group health insurer may limit periods of enrollment  
2 for part-time employees to a minimum of thirty calendar days;  
3 provided that:

4        (1) Part-time employees who experience a qualifying event  
5 shall enroll with a group health insurer within thirty  
6 days of the qualifying event; and

7        (2) Group health insurers shall be allowed to impose a  
8 one-year waiting period against part-time employees  
9 who terminate coverage for any reason. If a part-time  
10 employee terminates coverage and a one-year waiting  
11 period is imposed against the employee, a group health  
12 insurer need not reenroll the employee until the  
13 period of enrollment following the one-year waiting  
14 period.

15        For the purposes of this section:

16        "Group or association" shall not include any state or  
17 political subdivision of any state, or instrumentality thereof.

18        "Health care" includes hospitalization, surgery, medical or  
19 nursing care, drugs, or restorative appliances.

20        "Part-time employee" means a person employed by a single  
21 employer for at least fifteen, but less than twenty hours per  
22 week and for a continuous period of at least eighteen months.



1       "Qualifying event" means the date on which the part-time  
2 employee has been continuously employed by a single employer for  
3 a period of eighteen months or the date on which a dependent of  
4 the part-time employee becomes eligible for coverage through  
5 loss of other health care coverage, marriage, birth, or  
6 adoption.

7       "Regular employee" means a person employed by a single  
8 employer for at least twenty hours per week."

9       SECTION 2. Chapter 432, Hawaii Revised Statutes, is  
10 amended by adding a new section to article 1 to be appropriately  
11 designated and to read as follows:

12       "§432:1-    Group health care coverage; part-time  
13 employees. (a) A mutual benefit society in this state whose  
14 hospital and medical service corporation contract provides  
15 health care coverage for the regular employees of any group or  
16 association shall offer the same coverage to part-time employees  
17 of that group or association. If the group or association  
18 offers family coverage as defined in section 431:10A-103 to its  
19 regular employees, it shall offer the same family coverage to  
20 part-time employees. The group or association shall not be  
21 required by this section to pay any part of the premium for  
22 coverage of part-time employees. The group or association shall



1 be responsible for any administrative duties required for the  
2 enrollment of part-time employees such as monitoring  
3 eligibility, collecting premiums, and transmitting payment to  
4 the insurer.

5 (b) A group health insurer may limit periods of enrollment  
6 for part-time employees to a minimum of thirty calendar days;  
7 provided that:

8 (1) Part-time employees who experience a qualifying event  
9 shall enroll with a group health insurer within thirty  
10 days of the qualifying event; and

11 (2) Group health insurers shall be allowed to impose a  
12 one-year waiting period against part-time employees  
13 who terminate coverage for any reason. If a part-time  
14 employee terminates coverage and a one-year waiting  
15 period is imposed against the employee, a group health  
16 insurer need not reenroll the employee until the  
17 period of enrollment following the one-year waiting  
18 period.

19 For the purposes of this section:

20 "Group or association" shall not include any state or  
21 political subdivision of any state, or instrumentality thereof.



1       "Health care" includes hospitalization, surgery, medical or  
2 nursing care, drugs, or restorative appliances.

3       "Part-time employee" means a person employed by a single  
4 employer for at least fifteen, but less than twenty hours per  
5 week and for a continuous period of at least eighteen months.

6       "Qualifying event" means the date on which the part-time  
7 employee has been continuously employed by a single employer for  
8 a period of eighteen months or the date on which a dependent of  
9 the part-time employee becomes eligible for coverage through  
10 loss of other health care coverage, marriage, birth, or  
11 adoption.

12       "Regular employee" means a person employed by a single  
13 employer for at least twenty hours per week."

14       SECTION 3. Chapter 432D, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17       "§432D-    Group health care coverage; part-time employees.

18       (a) A health maintenance organization that issues a policy,  
19 contract, plan, or agreement in this state that provides health  
20 care coverage for the regular employees of any group or  
21 association shall offer the same coverage to part-time employees  
22 of that group or association. If the group or association





1 offers family coverage as defined in section 431:10A-103 to its  
2 regular employees, it shall offer the same family coverage to  
3 part-time employees. The group or association shall not be  
4 required by this section to pay any part of the premium for  
5 coverage of part-time employees. The group or association shall  
6 be responsible for any administrative duties required for the  
7 enrollment of part-time employees such as monitoring  
8 eligibility, collecting premiums, and transmitting payment to  
9 the insurer.

10 (b) A group health insurer may limit periods of enrollment  
11 for part-time employees to a minimum of thirty calendar days;  
12 provided that:

13 (1) Part-time employees who experience a qualifying event  
14 shall enroll with a group health insurer within thirty  
15 days of the qualifying event; and

16 (2) Group health insurers shall be allowed to impose a  
17 one-year waiting period against part-time employees  
18 who terminate coverage for any reason. If a part-time  
19 employee terminates coverage and a one-year waiting  
20 period is imposed against the employee, a group health  
21 insurer need not reenroll the employee until the



1 period of enrollment following the one-year waiting  
2 period.

3 For the purposes of this section:

4 "Group or association" shall not include any state or  
5 political subdivision of any state, or instrumentality thereof.

6 "Health care" includes hospitalization, surgery, medical or  
7 nursing care, drugs, or restorative appliances.

8 "Part-time employee" means a person employed by a single  
9 employer for at least fifteen, but less than twenty hours per  
10 week and for a continuous period of at least eighteen months.

11 "Qualifying event" means the date on which the part-time  
12 employee has been continuously employed by a single employer for  
13 a period of eighteen months or the date on which a dependent of  
14 the part-time employee becomes eligible for coverage through  
15 loss of other health care coverage, marriage, birth, or  
16 adoption.

17 "Regular employee" means a person employed by a single  
18 employer for at least twenty hours per week."

19 SECTION 4. (a) The insurance commissioner shall prepare a  
20 report of the costs and benefits of this Act. The report shall  
21 be prepared with the cooperation and assistance of the



1 disability compensation division of the department of labor and  
2 industrial relations. The report shall include:

- 3 (1) An evaluation of the success of this Act in providing  
4 part-time employees with access to health care  
5 coverage;
- 6 (2) An evaluation of the costs to employees, employers,  
7 and insurers of providing that coverage;
- 8 (3) Any recommendations concerning this Act; and
- 9 (4) Any other information necessary for a reasonable  
10 assessment of the costs and benefits of this Act to be  
11 made, and to allow health care coverage to be made  
12 available to part-time employees at the lowest  
13 possible cost.

14 (b) Each insurer subject to this Act shall submit, at the  
15 time and in the form prescribed by the insurance commissioner,  
16 the information deemed necessary by the insurance commissioner  
17 to complete the report required by this section. In obtaining  
18 this information, the insurance commissioner shall seek to  
19 minimize an insurer's cost of compliance.

20 (c) The insurance commissioner shall report its findings,  
21 recommendations, and any proposed legislation to the legislature



1 no later than twenty days prior to the convening of the regular  
2 session of 2011.

3 SECTION 5. New statutory material is underscored.

4 SECTION 6. This Act shall take effect on July 1, 2009, and  
5 shall be repealed on July 1, 2014.

