

# SB722 SD1

Measure Title: RELATING TO LONG-TERM CARE INSURANCE.

Report Title: Long-Term Care Insurance; Termination or Lapse

Description: Requires the 30-day termination notices for long-term care policies to be sent by certified mail or commercial delivery service instead of first-class mail. Prohibits a policy from lapsing or being terminated earlier than 60 days after the date of mailing of the notice. Takes effect on 1/1/2016. (SD1)

Companion: [HB102](#)

Package: None

Current Referral: HSH, CPN

Introducer(s): BAKER, CHUN OAKLAND, ENGLISH, ESPERO, WAKAI, Riviere, Ruderman, Taniguchi, L. Thielen

<a href="#">Sort by Date</a>		Status Text
1/23/2015	S	Introduced.
1/26/2015	S	Passed First Reading.
1/28/2015	S	Referred to HSH, CPN.
2/2/2015	S	The committee(s) on HSH has scheduled a public hearing on 02-05-15 1:20PM in conference room 016.
2/5/2015	S	The committee(s) on HSH recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in HSH were as follows: 4 Aye(s): Senator(s) Chun Oakland, Green, Harimoto, Riviere; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Slom.
2/17/2015	S	Reported from HSH (Stand. Com. Rep. No. 191) with recommendation of passage on Second Reading, as amended (SD 1) and referral to CPN.
2/17/2015	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to CPN.
2/20/2015	S	The committee(s) on CPN will hold a public decision making on 02-25-15 9:45AM in conference room 229.

**America's Health  
Insurance Plans**

601 Pennsylvania Avenue, NW  
South Building  
Suite Five Hundred  
Washington, DC 20004

202.778.3200  
www.ahip.org



February 24, 2015

Honorable Senator Rosalyn H. Baker, Chair  
Committee on Consumer Protection and Commerce  
State Senate  
Hawaii State Capitol, Conference Room 230  
415 South Beretania Street  
Honolulu, Hawaii 96813

RE: Senate Bill 722, Relating to Long-Term Care Insurance Lapse Notices & Termination

Via e mail: [capitolhawaii.gov/submittestimony.aspx](http://capitolhawaii.gov/submittestimony.aspx)

Dear Senator Baker and Committee Members:

On behalf of America's Health Insurance Plans (AHIP), thank you for the opportunity to submit our concerns with SB 722, relating to long-term care insurance premium lapse notification and reinstatement. Our concerns with the legislation are two-fold and set forth below.

AHIP is the national trade association representing the health insurance industry. AHIP's members provide health and supplemental benefits to more than 200 million Americans through employer-sponsored coverage, the individual insurance market, and public programs such as Medicare and Medicaid.

SB 722 amends current law by requiring that notice of a lapse of coverage or cancellation be sent by certified mail or commercial delivery service to the policyholder. This requirement places an undue administrative burden on the company. Moreover, delivery of a lapse or cancellation notice (even by certified mail or by commercial delivery) does not guarantee that those who receive it will, in fact, act in a timely manner. We fully support current law, which is based upon the *NAIC Long-Term Care Insurance Model Regulation* (NAIC Model) which requires lapse and termination notices be given by first class United States mail.

The NAIC Model further provides that "no individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least thirty (30) days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated at the address provided by the insured for purposes of receiving notice of lapse or termination.

SB 722 also extends the grace period for non-payment of premium from five months to seven months without premium payment. We are not aware of any state that has enacted a similar

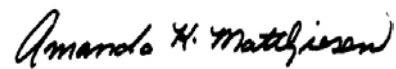
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requirement. We fully support current law, which is based upon the NAIC Model which requires reinstatement of coverage, in the event of lapse if the insurer is provided proof that the policyholder was cognitively impaired and the insured requests reinstatement within five (5) months after termination. If someone is not cognitively impaired and could have submitted premiums but did not, the policy lapses and the person is not entitled to reinstatement.

The NAIC Model reflects a broad consensus regarding the appropriate balance of insurer efforts to notify insurers regarding policy lapses and grace periods. We respectfully submit that SB 722 would upset that balance. For the reasons stated above, AHIP opposes SB 722.

Sincerely,

A handwritten signature in black ink that reads "Amanda K. Matthiesen". The signature is written in a cursive, flowing style.

Amanda K. Matthiesen

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
IN OPPOSITION TO SENATE BILL 722, SD 1,  
RELATING TO LONG TERM CARE INSURANCE

February 25, 2015

Via e mail: [CPNtestimony@capitol.hawaii.gov](mailto:CPNtestimony@capitol.hawaii.gov)  
Honorable Senator Rosalyn H. Baker, Chair  
Committee on Commerce and Consumer Protection  
State Senate  
Hawaii State Capitol, Conference Room 229  
415 South Beretania Street  
Honolulu, Hawaii 96813

Chair Baker and Committee Members:

Thank you for the opportunity to testify in opposition to SB 722, SD 1, relating to Long Term Care Insurance.

Our firm represents the American Council of Life Insurers ("ACLI"), a Washington, D.C., based trade association with more than 284 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Two hundred nineteen (219) ACLI member companies currently do business in the State of Hawaii; and they represent 92% of the life insurance premiums and 89% of the annuity considerations in this State.

ACLI strongly opposes the proposed bill for the reasons set forth below.

***Section 1 of the Bill:***

With regard to the information included in this section regarding the "tragic turn of events faced by an elderly couple in Virginia", we encourage the Committee to secure the facts of this case from the Virginia Bureau of Insurance which reviewed the complaint submitted by the son and the information provided by the insurance company under its complaint resolution process.

***Section 2 of the Bill:***

Instead of delivery of the lapse/termination notice by first class mail, SB 722, SD 1, proposes to require that the insurer send the notice to the insured and the insured's alternate designee(s) by "certified mail or commercial delivery service". Further, the lapse/termination period is extended from thirty to sixty days following the date of mailing of the notice.

ACLI opposes the proposed changes.

No state has yet to propose or enact similar requirements, and for good reasons.

Unlike 1<sup>st</sup> class USPS mail process of “print, fold, insert, meter and mail” delivery by certified mail requires manual intervention which is costly and takes longer to process which delays delivery. Costlier still is use of a commercial delivery service, such as UPS or FEDEX.

Moreover, delivery of a lapse or cancelation notice even by certified mail or by commercial delivery does not guarantee that those who receive it will in fact act in a timely manner.

The need to extend by 25 days the period of time required before termination of the policy can occur for nonpayment of premium has not been explained or demonstrated by the bill’s sponsor.

Under current law, the earliest date that an insurer may terminate a policy is 65 days. HRS Section 431:10H-209 now provides the following timeline for policy lapse/termination:

- Premium is due 1/1/15 and Policyholder does not pay.
- Company provides a written notice on nonpayment on 2/1/15 (the end of the 30 days grace period) to Policyholder and any alternative designees.
- Policyholder has another 35 day period to pay premium (5 days for the mailing + 30 days).
- In total, Policyholder has 65 days to pay premium. During this 65 day period, the policy is in effect and if a claim is triggered during that time and the Policyholder incurs eligible charges, insurance company is responsible for the claim.
- If no payment is received by the 66th day, the policy will lapse and no further benefits will be available.

SB 722, SD 1, would prohibit lapse/termination of a policy no “earlier than sixty days after the date of mailing of the [lapse/termination] notice”. This would mandate extending by 25 days the period of time required before termination can occur from 65 days to 90 days and require the insured to provide the insured ***an additional 25 days of coverage without premium payment.*** No state has yet to require that coverage be provided without premium beyond the 65 days mandated by the NAIC Long-term Care Insurance Model #641, as reflected in HRS Section 431:10H-209, and companies are generally prohibited from providing “free insurance” (assuming risk without a premium).

Moreover, even if the policy is in fact terminated after the 65 day period referenced above, HRS Section 431:10H-210 currently provides for reinstatement of the policy five months after the termination date provided payment of past due premiums is made and proof is provided that the insured was cognitively impaired or had a loss of functional capacity before the grace period expired. The proposed bill would change the current HRS Section 431:10H-210 and effectively gives an insured an additional 25 days to reinstate a policy due to nonpayment of premium. We believe that current law provides a sufficient reinstatement option that avoids anti-selection against the company.

Our companies’ experience has shown that the problem with the unintended lapse notifications is not how lapse notifications are mailed or the timelines prescribed in Hawaii’s Insurance Code; the problem is instead with the insured and the alternate designee sometimes not fulfilling their expected role in preventing policy lapse. Neither the insurance company nor the State’s

Insurance Division have regulatory leverage over the insured or the alternate designee – no one can force them to open up the mail, read it and take appropriate action.

For the reasons stated above, ACLI respectfully opposes SB 722, SD 1, and requests that this Committee defer passage of this bill.

LAW OFFICES OF  
OREN T. CHIKAMOTO  
A Limited Liability Law Company

A handwritten signature in black ink, appearing to read 'O. T. Chikamoto', written over the text of the law firm name.

Oren T. Chikamoto  
1001 Bishop Street, Suite 1750  
Honolulu, Hawaii 96813  
Telephone: (808) 531-1500  
Facsimile: (808) 531-1600  
E mail: [otc@chikamotolaw.com](mailto:otc@chikamotolaw.com)



February 25, 2015

Senate Committee on Commerce and Consumer Protection  
Senator Rosalyn Baker, Chair

Re: **SB 722, RELATING TO LONG-TERM CARE INSURANCE**

Chair Baker, Vice Chair Taniguchi, and members of the committee:

AARP is a membership organization of people fifty and over with nearly 148,000 members in Hawaii alone. AARP advocates for issues that matter to Hawaii families, including the high cost of long-term care; access to affordable, quality health care for all generations; providing the tools needed to save for retirement; and serving as a reliable information source on issues critical to people over the age of fifty.

**AARP Hawaii supports SB 722, Relating to long-term care insurance.** We support the stated purpose of this bill, which is to help Hawaii's kupuna prevent lapses or terminations for their long-term care insurance ("LTCI") policies. This bill would require thirty-day termination notices to be sent by certified mail or commercial delivery service instead of first-class mail. It would also prevent a policy from lapsing or being terminated earlier than sixty days after the date of mailing of the notice.

We believe that state governments should improve the quality of LTCI by enacting the strongest possible consumer protection standards. LTCI plays an important role in financing long-term care in our state, and individuals may faithfully maintain an LTCI policy for many years before an unintentional lapse in payment occurs. It is in the best interests of both the state's broader long-term care financing system, and, more importantly, the individuals impacted to establish strong consumer protections for cases of unintentional lapse.

We believe this bill will help to achieve these goals and urge you to support it.

Thank you for the opportunity to submit testimony.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [CPN Testimony](#)  
**Cc:** [khw666@hawaii.edu](mailto:khw666@hawaii.edu)  
**Subject:** Submitted testimony for SB722 on Feb 25, 2015 09:45AM  
**Date:** Monday, February 23, 2015 1:30:00 AM  
**Attachments:** [Testimony](#)

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**SB722**

Submitted on: 2/23/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Keliimakamae Waiolama	Individual	Support	Yes

**Comments:**

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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PETER L. FRITZ  
200 NORTH VINEYARD BOULEVARD, #430  
HONOLULU, HAWAII 96817  
TELEPHONE (SPRINT IP RELAY): (808) 568-0077  
E-MAIL: PLFLEGIS@FRITZHQ.COM

THE SENATE  
THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2015

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Testimony on S.B. 722 SD 1  
Hearing: February 25, 2015

(RELATING TO LONG-TERM CARE INSURANCE)

Chair Baker, Vice Chair Taniguchi and members of the Committee. My name is Peter Fritz. I am testifying **in support** of this bill.

This purpose of this bill is to provide proof that a notice of termination for a Long-Term Care Insurance Policy ("LTCI") has been sent to all required persons by requiring that the notice be sent by certified mail or commercial delivery service instead of first-class mail. This will provide proof from an independent party of compliance with Hawaii law.

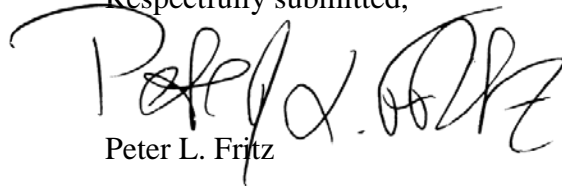
- To terminate a LTCI policy a notice must be mailed to the insured and any other party designed to receive the notice. §431:10H-209, Hawaii Revised Statutes.
- If there is a question about whether a notice of termination was mailed to the insured and any other party designated to receive the notice, the only proof may be a computer printout from the insurance company.
- Requiring that the notice be sent by certified mail or by a commercial delivery service such as UPS or FedEx provides for an independent record of compliance with §431:10H-209. It provides additional protection for the insurance company, the consumer and the insurance division because:
  - For **insurance companies**, it provides independently verifiable evidence that the notice was mailed to all required parties in the form of a tracking number from UPS, FedEx or USPS certified mail that can be provided to the consumer as proof that requirements of the law were followed by the insurance company.
  - For **kupuna and their adult children**, the tracking number from a third party is proof that the notice of termination was sent to all required parties. It is more substantial proof than a printout from the insurance company's computer.
  - For the **insurance division**, proof of compliance, by a record maintained by an independent third party, can be given substantial weight as evidence of compliance with §431:10H-209 if there is a dispute about whether a notice was mailed to all required parties.
- **Convenience for the insurance company.** A trip to the Post office is not required because shipping documents for commercial carrier carriers such as UPS and FedEx can be created on a desktop computer and a pick up scheduled at the insurance company's office.

- LTCI plays an important role in financing long-term care. It is in the best interests of both the state's broader long-term care financing system, and, more importantly, the individuals impacted to establish strong consumer protections for cases of unintentional lapse. State governments should improve the quality of LTCI policies by enacting the strongest possible consumer protection standards.

I respectfully request your support of this bill which carefully protects the needs of senior citizens who, in good faith, are paying very large premiums in relation to their fixed incomes, by not allowing the carriers to cancel a policy with just a token routine notice sent via US mail.

Thank you for the opportunity to testify.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter L. Fritz", with a large, sweeping flourish extending from the end of the signature.

Peter L. Fritz