RELATING TO LIFE INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The purpose of this Act is to amend Hawai'i's life insurance and annuity statutes to conform to model acts and regulations of the National Association of Insurance Commissioners relating to employee group life insurance policies and the replacement of life insurance policies and annuities.

SECTION 2. Section 431:10D-202, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Issuance of group life insurance policies shall be subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term employees shall include:

(A) The employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships, or
partnerships, if the business of the employer and
of such affiliated corporations, proprietorships,
or partnerships is under common control;

(B) The individual proprietor or partners, if the
employer is an individual proprietor or a
partnership; and

(C) Retired employees.

No director of a corporate employer shall be eligible
for insurance under the policy unless such person is
otherwise eligible as a bona fide employee of the
corporation by performing services other than the
usual duties of a director. No individual proprietor
or partner shall be eligible for insurance under the
policy unless the individual is actively engaged in
and devotes a substantial part of the individual's
time to the conduct of the business of the
proprietorship or partnership;

(2) The premium for the policy shall be paid [either:

(A) Wholly] from the employer's fund or funds
contributed by the employer[the

(B) 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. A policy on which part of the premium is
to be derived from funds provided in accordance with
subparagraph (B) may be placed in force only if at
least seventy-five per cent of the then eligible
employees, excluding any as to whom evidence of
insurability is not satisfactory to the insurer, elect
to make the required contributions. Except as
provided in paragraph (3), a policy on which no part
of the premium is to be derived from funds contributed
by the insured employees shall insure all eligible
employees, except those who reject such coverage in
writing; and

(3) An insurer may exclude or limit the coverage on any
person as to whom evidence of individual insurability
is not satisfactory to the insurer[+]

(4) The policy shall cover at least ten employees at date
of issue; and

(5) The amounts of insurance under the policy shall be
based upon some plan precluding individual selection
either by the employees, employer, or trustees]."
SECTION 3. Section 431:10D-212, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except for a policy issued under sections 431:10D-203 and 431:10D-211, insurance under any group life insurance policy issued pursuant to this article may be extended to insure the employees or members of such groups against loss due to the death of their spouses and dependent children subject to the following:

(1) The spouse and dependent of the individual insured may be covered in amounts of insurance equivalent to the amount of coverage of the insured individual provided that in the case of a dependent other than a spouse of the insured individual the amount of insurance for the dependent shall not be in excess of fifty per cent of the coverage of the insured individual or $5,000, whichever is less, and provided further that in the case of a dependent whose age at death is under six months, the amount shall not be in excess of $2,000;

(2) The premiums for the insurance of the spouse or dependent shall be paid either from funds contributed by the employer, union, association or other person to
whom the policy has been issued, or from funds contributed by the individual insured, or from both; and

(3) An insurer may exclude or limit the coverage on any spouse or dependent child as to whom evidence of individual insurability is not satisfactory to the insurer."

SECTION 4. Section 431:10D-501, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Unless otherwise specifically included, this part shall not apply to transactions involving:

(1) Credit life insurance;

(2) Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals when initiated by an individual member of the group assisting with the selection of investment options offered by a single annuity provider in connection with enrolling the individuals. Group life insurance or group annuity certificates marketed through direct-
response solicitation shall be subject to section 431:10D-507;

(3) Group life insurance used to fund prearranged funeral contracts;

(4) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;

(5) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

(6) Policies or contracts used to fund:

(A) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(B) A plan described by sections 401(a), 401(k) or 403(b) of the Internal Revenue Code of 1986, as
amended, where the plan, for purposes of ERISA, is established or maintained by an employer;

(C) A governmental or church plan defined in section 414 of the Internal Revenue Code of 1986, as amended, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the Internal Revenue Code of 1986, as amended; or

(D) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

provided that, notwithstanding the exemptions listed in subparagraphs (A) to (D), this part shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more annuity providers or policy providers and there is a direct solicitation of an individual employee by an insurance producer for the
purchase of a contract or policy. As used in this
subsection, direct solicitation shall not include any
group meeting held by an insurance producer solely for
the purpose of educating individuals about the plan or
arrangement or enrolling individuals in the plan or
arrangement or, when initiated by an individual
employee assisting with the selection of investment
options offered by a single annuity provider in
connection with enrolling that individual employee;

(7) Where new coverage is provided under a life insurance
policy or contract and the cost is borne wholly by the
insured's employer or by an association of which the
insured is a member;

(8) Existing life insurance that is a non-convertible term
life insurance policy that will expire in five years
or less and cannot be renewed;

(9) Immediate annuities that are purchased with proceeds
from an existing contract; provided that immediate
annuities purchased with proceeds from an existing
policy are not exempted from the requirements of this
part; and

(10) Structured settlements."
SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY: 

JAN 15 2008
Report Title:
Life Insurance; NAIC

Description:
Eliminates insured employees as a source of funding the premiums for employee group life insurance policies. Eliminates requirement that the employee group life insurance policies must cover at least 10 employees at date of issue. Eliminates policy limits against loss due to death of a dependent other than the spouse of the insured employee under an employee group life insurance policy. Excludes the exercise of among corporate affiliates of a term conversion privilege from the applicability of laws relating to the replacement of life insurance policies and annuities.