



GOV. MSG. NO. 666

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

May 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:

This is to inform you that on May 6, 2009, the following bill was signed into law:

HB1075 SD1

A BILL FOR AN ACT  
RELATING TO INSURANCE.  
**ACT 049 (09)**

Sincerely,



LINDA LINGLE

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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. 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;~~] 431:10H-217.5; and

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

- 1 (A) A statement that the initial premium rate  
2 schedule is sufficient to cover anticipated costs  
3 under moderately adverse experience and that the  
4 premium rate schedule is reasonably expected to  
5 be sustainable over the life of the form with no  
6 future premium increases anticipated;
- 7 (B) A statement that the policy design and coverage  
8 provided have been reviewed and taken into  
9 consideration;
- 10 (C) A statement that the underwriting and claims  
11 adjudication processes have been reviewed and  
12 taken into consideration;
- 13 (D) A complete description of the basis for contract  
14 reserves that are anticipated to be held under  
15 the form, to include:
- 16 (i) Sufficient detail or sample calculations  
17 provided so as to have a complete depiction  
18 of the reserve amounts to be held;
- 19 (ii) A statement that the assumptions used for  
20 reserves contain reasonable margins for  
21 adverse experience;

1 (iii) A statement that the net valuation premium  
2 for renewal years does not increase (except  
3 for attained-age rating where permitted);  
4 and

5 (iv) A statement that the difference between the  
6 gross premium and the net valuation premium  
7 for renewal years is sufficient to cover  
8 expected renewal expenses; or if [~~such a~~]  
9 that statement cannot be made, a complete  
10 description of the situations where this  
11 does not occur; provided that an aggregate  
12 distribution of anticipated issues may be  
13 used as long as the underlying gross  
14 premiums maintain a reasonably consistent  
15 relationship; provided further that if the  
16 gross premiums for certain age groups are  
17 inconsistent with this requirement, the  
18 commissioner may request a demonstration  
19 under subsection (c) based on a standard age  
20 distribution; and

21 (E) With respect to premium rate schedules:

- 1           (i) A statement that the premium rate schedule
- 2           is not less than the premium rate schedule
- 3           for existing similar policy forms also
- 4           available from the insurer except for
- 5           reasonable differences attributable to
- 6           benefits; or
- 7           (ii) A comparison of the premium schedules for
- 8           similar policy forms that are currently
- 9           available from the insurer with an
- 10          explanation of the differences."

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

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

- 16          (1) Establish marketing procedures to assure that any
- 17             comparison of policies by its producers will be fair
- 18             and accurate;
- 19          (2) Establish marketing procedures to assure excessive
- 20             insurance is not sold or issued;

- 1           (3) Display prominently by type, stamp, or other  
2           appropriate means, on the first page of the outline of  
3           coverage and policy the following:  
4           "Notice to buyer: This policy may not cover all of  
5           the costs associated with long-term care incurred by  
6           the buyer during the period of coverage. The buyer is  
7           advised to review carefully all policy limitations.";
- 8           (4) Inquire and otherwise make every reasonable effort to  
9           identify whether a prospective applicant or enrollee  
10          for long-term care insurance currently has long-term  
11          care insurance and the types and amounts of any [~~such~~]  
12          long-term care insurance, except that in the case of  
13          qualified long-term care insurance contracts, an  
14          inquiry into whether a prospective applicant or  
15          enrollee for long-term care insurance has accident and  
16          sickness insurance is not required;
- 17          (5) Every insurer or entity marketing long-term care  
18          insurance shall establish auditable procedures for  
19          verifying compliance with this subsection [~~(a)~~];
- 20          (6) If the state in which the policy or certificate is to  
21          be delivered or issued for delivery has a senior  
22          insurance counseling program approved by the

1 commissioner, the insurer, at solicitation, shall  
2 provide written notice to the prospective policyholder  
3 or certificate holder of a state senior insurance  
4 counseling program including the name, address, and  
5 telephone number of the program;

6 (7) For long-term care health insurance policies and  
7 certificates, use the terms "noncancellable" or "level  
8 premium" only when the policy or certificate conforms  
9 to section 431:10H-202;

10 (8) Provide copies of the disclosure forms required in  
11 section 431:10H-217.5(c) to the applicant; and

12 (9) Provide an explanation of contingent benefit upon  
13 lapse provided for in section 431:10H-233(f) ~~[-]~~ and,  
14 if applicable, the additional contingent benefit upon  
15 lapse provided to policies with fixed or limited  
16 premium paying periods in section 431:10H-233(g)."

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

19 "(o) To determine whether contingent nonforfeiture upon  
20 lapse provisions are triggered under subsection (f) ~~[-]~~ or (g), a  
21 replacing insurer that ~~[purchases]~~ purchased or ~~[assumes]~~  
22 otherwise assumed a block or blocks of long-term care insurance

1 policies from another insurer shall calculate the percentage  
2 increase based on the initial annual premium paid by the insured  
3 when the policy was first purchased from the original insurer."

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

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

APPROVED this 6 day of MAY, 2009



GOVERNOR OF THE STATE OF HAWAII