

---

---

# A BILL FOR AN ACT

RELATING TO LONG-TERM CARE.

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

1           SECTION 1. The legislature finds that the future of  
2 long-term care for Hawaii's senior and adult disabled population  
3 is one of the most critical health issues facing Hawaii in the  
4 twenty-first century. The rapid growth of the elderly and  
5 disabled populations will result in extraordinary demands on the  
6 delivery of long-term care services. While the majority of  
7 persons receiving long-term care are older adults, entire  
8 families are affected by the psychological, financial, and  
9 social costs of providing long-term care. To accommodate the  
10 demands of caregiving that grow as dependency increases, family  
11 caregivers often reduce work hours, adjust or abandon career and  
12 personal goals, and retire earlier than intended, lowering their  
13 own earnings and pension benefit levels. Caregivers are apt to  
14 be in poorer health than members of the general population and  
15 often need care in their advanced years. Caregivers can be  
16 assisted by creating a stronger network of support services  
17 including respite care and other support services to alleviate



1 the demanding responsibility of providing daily care for those  
2 who require it.

3 When nursing home care is necessary, Hawaii's families are  
4 burdened with expensive annual nursing home charges. In the  
5 case of elderly families, these charges are sometimes greater  
6 than their average annual disposable income, threatening those  
7 who are otherwise self-sufficient. Thus, it is not surprising  
8 that approximately eighty per cent of all nursing home residents  
9 are dependent on Medicaid, an entitlement program for persons  
10 with limited income and assets.

11 Persons sixty years of age and older presently account for  
12 almost one-fifth of the adult population in the State. By 2020,  
13 they will constitute more than one-fourth of Hawaii's adult  
14 population. Nearly one-third of this segment alone is expected  
15 to have functional disabilities. Although families have  
16 expressed a preference for home- and community-based care, these  
17 services and nursing home beds are currently below requisite  
18 levels. The average annual cost for nursing home care has been  
19 estimated to eventually reach in excess of \$200,000 per person.

20 However, nursing home care is only one component of the  
21 array of long-term care services that has been developed. Due  
22 to cost factors, it is likely that home- and community-based



1 services will become more predominant. These services are  
2 provided in and outside the home and are appropriate for those  
3 who do not need to be institutionalized. In fact, an important  
4 function of home- and community-based services is to prevent or  
5 forestall institutionalization. Home- and community-based  
6 services consist of a number of different modalities, some or  
7 all of which may be used by the individual. These services  
8 include adult day health services, case management services,  
9 environmental modifications, homemaker services, personal care  
10 services, personal emergency response systems, respite care  
11 services, skilled nursing services, transportation services, and  
12 similar services. While home- and community-based services can  
13 provide care that is less costly than institutional care, it is  
14 still expensive.

15 To resolve the impending long-term care crisis, the  
16 department of health, at the direction of the governor,  
17 established a long-term care task force. The task force  
18 consists of individuals from various state agencies, including  
19 the department of health, department of taxation, the department  
20 of commerce and consumer affairs, the long-term care insurance  
21 industry, and health care sector.



1           The long-term care task force developed the individual tax  
2 credit contained in this Act with the objective of assisting  
3 lower income taxpayers in purchasing long-term care insurance by  
4 providing a tax credit for a substantial portion of the average  
5 long-term care premiums and to provide an incentive for  
6 taxpayers with moderate incomes to purchase long-term care  
7 insurance.

8           The purpose of this Act is to provide individual long-term  
9 care tax credits for long-term care premium costs.

10          SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
11 amended by adding two new sections to be appropriately  
12 designated and to read as follows:

13          "§235-A Long-term care tax credit. (a) Each individual  
14 taxpayer, who files an individual income tax return for a  
15 taxable year and who is not claimed or is not otherwise eligible  
16 to be claimed as a dependent by another taxpayer for Hawaii  
17 state individual income tax purposes, may claim a long-term care  
18 tax credit for premium payments made during the taxable year for  
19 the purchase of a qualified long-term care insurance contract  
20 against the taxpayer's net individual income tax liability for  
21 the taxable year for which the individual's income tax return is  
22 being filed; provided that an individual who has no income or no



1 income taxable under this chapter and who is not claimed or is  
 2 not otherwise eligible to be claimed as a dependent by a  
 3 taxpayer for Hawaii state individual income tax purposes may  
 4 claim this credit.

5 (b) For taxable years beginning after December 31, 2007,  
 6 the tax credit shall be as follows:

7 (1) For a husband and wife filing a joint return, an  
 8 amount equal to the lesser of:

9 (A) \$500 in aggregate; or

10 (B) The percentage of the total cost of long-term  
 11 care insurance premium payments made during the  
 12 taxable year based upon the husband's and wife's  
 13 total adjusted gross income as follows:

14	<u>Under \$80,000</u>	<u>25.0 per cent</u>
15	<u>at least \$80,000 and under \$100,000</u>	<u>15.0 per cent</u>
16	<u>at least \$100,000 and under \$125,000</u>	<u>7.5 per cent</u>
17	<u>at least \$125,000 and up to \$150,000</u>	<u>2.5 per cent</u>
18	<u>over \$150,000</u>	<u>0 per cent;</u>

19 provided that a husband and wife filing separate tax  
 20 returns for a taxable year for which a joint return  
 21 could have been filed by them shall claim only the tax



1 credit to which they would have been entitled under  
2 this section had a joint return been filed; and

3 (2) The tax credit for all other individual taxpayers  
4 filing a return shall be an amount equal to the lesser  
5 of:

6 (A) \$250; or

7 (B) The percentage of the total cost of long-term  
8 care insurance premium payments made during the  
9 taxable year based upon the taxpayer's total  
10 adjusted gross income as follows:

11	<u>Under \$40,000</u>	<u>25.0 per cent</u>
12	<u>at least \$40,000 and under \$50,000</u>	<u>15.0 per cent</u>
13	<u>at least \$50,000 and under \$62,500</u>	<u>7.5 per cent</u>
14	<u>at least \$62,500 and up to \$75,000</u>	<u>2.5 per cent</u>
15	<u>over \$75,000</u>	<u>0 per cent.</u>

16 (c) For taxable years beginning after December 31, 2008,  
17 the tax credit shall be as follows:

18 (1) For a husband and wife filing a joint return, an  
19 amount equal to the lesser of:

20 (A) \$1,000 in aggregate; or

21 (B) The percentage of the total cost of long-term  
22 care insurance premium payments made during the



# H.B. NO. 59

1                   taxable year based upon the husband's and wife's  
 2                   total adjusted gross income as follows:

3	<u>Under \$80,000</u>	<u>50.0 per cent</u>
4	<u>at least \$80,000 and under \$100,000</u>	<u>30.0 per cent</u>
5	<u>at least \$100,000 and under \$125,000</u>	<u>15.0 per cent</u>
6	<u>at least \$125,000 and up to \$150,000</u>	<u>5.0 per cent</u>
7	<u>over \$150,000</u>	<u>0 per cent;</u>

8                   provided that a husband and wife filing separate tax  
 9                   returns for a taxable year for which a joint return  
 10                  could have been filed by them shall claim only the tax  
 11                  credit to which they would have been entitled under  
 12                  this section had a joint return been filed; and

13                  (2) The tax credit for all other individual taxpayers  
 14                  filing a return shall be an amount equal to the lesser  
 15                  of:

- 16                  (A) \$500; or
- 17                  (B) The percentage of the total cost of long-term  
 18                  care insurance premium payments made during the  
 19                  taxable year based upon the taxpayer's total  
 20                  adjusted gross income as follows:

21	<u>Under \$40,000</u>	<u>50.0 per cent</u>
22	<u>at least \$40,000 and under \$50,000</u>	<u>30.0 per cent</u>



1	<u>at least \$50,000 and under \$62,500</u>	<u>15.0 per cent</u>
2	<u>at least \$62,500 and up to \$75,000</u>	<u>5.0 per cent</u>
3	<u>over \$75,000</u>	<u>0 per cent.</u>

4 (d) The credit applies to premium payments made during the  
5 taxable year for a qualified long-term care insurance contract  
6 that covers:

- 7 (1) The taxpayer;
- 8 (2) The taxpayer's dependent as defined in section 152 of  
9 the Internal Revenue Code of 1986, as amended;
- 10 (3) The taxpayer's spouse;
- 11 (4) A son or daughter of the taxpayer;
- 12 (5) A stepson or stepdaughter of the taxpayer, if the  
13 stepson or stepdaughter is under the age of 60;
- 14 (6) The father or mother of the taxpayer; or
- 15 (7) A stepfather or stepmother of the taxpayer.

16 (e) If a taxpayer claims any other tax credit or deduction  
17 under title 14, including a deduction under section 162 or 213  
18 of the Internal Revenue Code, to which Hawaii law conforms, for  
19 premiums paid for a long-term care insurance policy, no tax  
20 credit shall be claimed under this section for the same premium  
21 payments.

1        (f) For the purpose of this tax credit, the "net income  
2 tax liability" means net income tax liability reduced by all  
3 other tax credits allowed under this chapter. If the tax  
4 credits claimed by a taxpayer exceed the amount of income tax  
5 payment due from the taxpayer, the excess of credits over  
6 payments due shall be refunded to the taxpayer; provided that  
7 tax credits properly claimed by an individual who has no income  
8 tax liability shall be paid to the individual; and provided  
9 further that no refunds or payment on account of the tax credit  
10 allowed by this section shall be made for amounts less than \$1.

11        (g) All claims, including any amended claims, for tax  
12 credits under this section shall be filed on or before the end  
13 of the twelfth month following the close of the taxable year for  
14 which the credit may be claimed. Failure to comply with this  
15 provision shall constitute a waiver of the right to claim the  
16 credit.

17        (h) The director of taxation shall prepare any forms that  
18 may be necessary to claim a tax credit under this section. The  
19 director may also require the taxpayer to furnish information to  
20 ascertain the validity of the claims for a tax credit made under  
21 this section and may adopt rules necessary to effectuate the  
22 purposes of this section pursuant to chapter 91.



1        (i) For purposes of this section:

2        "Activities of daily living" means eating, toileting,  
3 transferring, bathing, dressing, and continence.

4        "Chronically ill individual" means any individual who has  
5 been certified by a licensed health care practitioner within the  
6 preceding twelve-month period as meeting one of the following  
7 conditions:

8        (1) Being unable to perform at least two activities of  
9 daily living without substantial assistance from  
10 another individual for a period of at least ninety  
11 days due to a loss of functional capacity;

12        (2) Having a level of disability similar to the disability  
13 set forth in the preceding paragraph; or

14        (3) Requiring substantial supervision to protect the  
15 individual from threats to health and safety due to a  
16 severe cognitive impairment.

17        "Licensed health care practitioner" means any licensed  
18 physician, registered nurse, licensed social worker, or other  
19 professional as may be provided by rules adopted by the director  
20 of taxation.

21        "Maintenance or personal care services" means any care  
22 primarily used to provide assistance with any disability that



1 contributes to an individual chronic illness, including the  
2 protection from threats to health and safety due to a severe  
3 cognitive impairments.

4 "Qualified long-term care insurance contract" means a  
5 contract that:

6 (1) Provides insurance coverage solely for qualified  
7 long-term care services;

8 (2) Does not pay or reimburse expenses incurred for  
9 services or items to the extent that the expenses are  
10 reimbursable under title XVIII of the Social Security  
11 Act or would be so reimbursable but for the  
12 application of a deductible or coinsurance amount,  
13 unless:

14 (A) The expenses are reimbursable by Medicaid as  
15 secondary payor; or

16 (B) The contract makes qualified per diem or other  
17 periodic payments without regard to expenses, as  
18 defined in this section;

19 (3) Is guaranteed renewable;

20 (4) Provides that refunds, other than refunds on the death  
21 of the insured or complete surrender or cancellation  
22 of the contract, and dividends under the contract



1           shall be used only to reduce future premiums or  
 2           increase future benefits; and  
 3           (5) Does not provide for a cash surrender value or any  
 4           other money that may be paid, assigned, borrowed, or  
 5           pledged as collateral for a loan.

6           "Qualified long-term care services" means necessary  
 7 diagnostic, preventive, therapeutic, curing, treating,  
 8 mitigating, and rehabilitative services, and maintenance or  
 9 personal care services, that are:

- 10           (1) Required by a chronically ill individual; and
- 11           (2) Provided pursuant to a plan of care prescribed by a  
 12           licensed health care practitioner."

13           SECTION 3. New statutory material is underscored.

14           SECTION 4. This Act shall take effect on July 1, 2007, and  
 15 shall apply to taxable years beginning after December 31, 2007.

16

17

INTRODUCED BY: *Debara Marumoto*  
 JAN 17 2007



**Report Title:**

Long-term Care; Tax Credit

**Description:**

Provides a tax credit to individual taxpayers for premiums paid for long-term care insurance contracts.

