

**SB 1204**



**Testimony to the Senate Committees on Human Services and Commerce and  
Consumer Protection  
Hawaii State Capitol  
Conference Room 016  
Tuesday, February 17, 2009 at 1:15 p.m.**

**SUBJECT: SENATE BILL 1204 - RELATING TO LONG-TERM INSURANCE TAX  
CREDIT FOR SMALL BUSINESS**

Chairs Chun Oakland and Baker, Vice Chairs Ihara and Ige, and Members of the Committees:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I appreciate the opportunity to state The Chamber's support of SB 1204 relating to Long-term Insurance Tax Credit for Small Business.

The Chamber is the largest business organization in Hawaii, representing over 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The measure grants tax credits to small businesses at the lesser of fifty per cent of premiums or \$500 per employee for the purchase of long-term care insurance for its employees. The measure defines small business as businesses employing less than 100 full-time or part-time workers.

The Chamber commends the Legislature for seeking ways to address the current situation of long-term care for Hawaii's senior and adult disabled population and supports a statewide effort to address this growing population through various voluntary initiatives such as tax credit incentives, especially for small businesses.

Small employers provide a majority of the jobs in Hawaii. As the cost of doing business continues to rise and the economy is on a downturn, small businesses will be forced to make prudent and sound decisions on providing benefits to employees while managing costs. However, many recognize the current and growing problem of long-term care. This measure provides an option and incentive for small businesses to offer benefits such as long-term care insurance for their employees.

In light of this, The Chamber asks for your favorable consideration of this measure. Thank you for the opportunity to testify.



**ASSOCIATION OF INSURANCE  
AND FINANCIAL ADVISORS<sup>SM</sup>**

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*Committee on Human Services – Senator Suzanne Chun Oakland, Chair*

*Committee on Commerce & Consumer Protection – Senator Rosalyn Baker, Chair*

**Hearing Date: February 17, 2009**

**Time: 1:15 pm**

**Re: Senate Bill 1204 – Relating to Long Term Insurance Tax Credit  
For Small Business**

Chair Chun Oakland, Chair Baker and members of the Committees, my name is Cynthia Hayakawa, Executive Director of NAIFA (“National Association of Insurance and Financial Advisors”) Hawaii, an organization made up of life insurance agents and financial advisors across Hawaii.

**We strongly support SB 1204.** SB 1204 will allow the lesser of \$500 for each employee or 50% of the insurance premium for each employee. This will afford the employer to insure every employee at a base level and in turn, the employees will be able to purchase added coverage.

Employers, if they are paying LTC premiums as a benefit for their employees, can also deduct the entire LTC insurance premium expense on their corporate tax return. This measure can provide a very worthwhile incentive to employers to encourage them to make this benefit available since most employee benefits (health insurance, TDI, disability income, retirement, Social Security, Medicare, etc.) are delivered at the workplace. Employers provide one of the best venues in educating our citizens about their future LTC needs.

We believe that this kind of incentive is integral to get the “ball rolling” and the bulk of the LTC premium will be borne by employees. May we suggest that you consider lowering the amount of the tax credit. Many employers today are paying under \$100 per year per employee. Most of the employees then spend three times that amount out of their own pocket. To engage employees and their families in this financing issue, you only need very small employer dollars to “prime the pump.”

Additionally, there are numerous benefits for a group purchase of LTC insurance:

- Group LTC insurance policies are approximately 10% to 40% less than individual LTC policies subject to underwriting requirements (age, health, etc.).

SB 1204

- Premiums are level, based on age purchased, which encourages younger employees to participate. Employees receive guaranteed issue coverage (no medical questions) up to certain limits.
- Employees can customize the coverage beyond the employer paid base plan, at highly discounted rates. Employees can add to their coverage at anytime.
- Employee's **entire extended family** (parents, grandparents, in-laws, siblings, adult children) can participate in the discounted group rates.
- Employees can take their coverage with them should they retire or terminate their employment at same rate with the exact same coverage and extended family members retain their coverage.
- 40% of employees will purchase additional discounted coverage out of their own pocket.

Government's support of a tax incentive in encouraging individual responsibility for long term care financing is a step towards solving this complex issue. Our citizens will have these products to protect themselves against catastrophic long term care expenses. The expansion of this market will reduce Medicaid outlays and future costs to both the federal and state governments.

Yes, it is true that the older one gets, a LTC insurance policy becomes less affordable due to chronic ailments or unavailable due to health ailments. A tax credit for employers and individuals will encourage the young to purchase their LTC insurance when they are healthy and rates are most affordable.

Medicaid began as a safety net for the less fortunate but over the past 30 years, loopholes have "saved" family assets through "Medicaid planning" that we see in advertising announcements. By purchasing LTC insurance policies, Medicaid will serve those truly in need. The burden on state and federal governments continues to grow and we need to address this complex problem since the baby boomers have begun their golden years.

We ask for your support for this tax credit.

Mahalo for allowing us to share our views.



Hawaii's Voice for a Better Future

Testifier: Laura G. Manis, tel. 597-8838

COMMITTEE ON HUMAN SERVICES

Senator Suzanne Chun Oakland, Chair, Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair, Senator David Y. Ige, Vice Chair

Tuesday, February 17, 2009, 1:15pm, Conference Room 016

**SB 1204** RELATING TO LONG-TERM INSURANCE TAX CREDIT FOR SMALL BUSINESS. Grants tax credit to small businesses at the lesser of 50% of premiums or \$500 per employee for purchase of long-term care insurance for its employees. Defines small business as businesses employing less than 100 full-time or part-time workers.

**SUPPORT**

**Kokua Council** whose mission includes advocating for the health of the elderly and those vulnerable populations who cannot advocate for themselves supports this bill.

**Kokua Council realizes that this is a new perspective to providing an incentive for buying Long Term Care Insurance. Providing a tax credit to employers of small businesses who purchase the insurance for their employees is worth a trial.**

**For this reason we suggest that a sunset date be included in the bill to give time to evaluate whether or not it did indeed increase the purchase of Long Term Care Insurance.**

Also of concern is who pays for the insurance if the employee changes jobs.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
COMMENTING ON SB. 1204, RELATING TO LONG TERM CARE

February 17, 2008

Senator Suzanne Chun-Oakland, Chair  
Committee on Human Services  
Senator Rosalyn H. Baker, Chair  
Committee on Commerce and Consumer Protection  
State Senate  
Hawaii State Capital, Conference Room 016  
415 S. Beretania Street  
Honolulu, HI 96813

Dear Chair Chun-Oakland, Chair Baker and Committee Members:

Thank you for the opportunity to comment on SB 1204, relating to long term care.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred forty (340) member company's account for 94% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred fifty-three (253) ACLI member companies currently do business in the State of Hawaii.

ACLI generally believes that as a matter of public policy the State of Hawaii should encourage families to provide for their own financial well-being. If a family is unable to support its long-term care needs, the State will need to spend its scare resources for that purpose.

ACLI supports the intent and purposes of SB. 1204, which provides an income tax credit to small business employers (having less than 100 employees) regardless of their adjusted gross income, in an amount equal to the lesser of \$500 for each employee or 50% of the cost of the long-term care insurance premium for each employee.

However, as currently drafted the Bill appears to limit those small businesses who may claim the credit to individuals or corporations. Yet, "small business" is defined as "a for-profit enterprise" which includes "a corporation, partnership, limited liability company or other form of business entity.

Accordingly, ACLI suggests that the first unnumbered section of §235 (on page 4, lines 15 through 22, and on page 5, lines 1 through 19) be amended as follows:

~~§235-~~ Small business long-term care insurance premium tax credit. (a) Each ~~individual and corporate~~ resident tax payer subject to the tax imposed by this chapter who owns a small business, as defined in this section, and files an ~~individual or corporate~~ net income tax return, regardless of adjusted gross income, may claim a small business long-term care insurance premium tax credit against the taxpayer's ~~individual or corporate~~ net income tax liability for the taxable year in which the credit is claimed and for which the income tax return is being filed; provided that an ~~individual or corporation~~ taxpayer who has no income taxable under this chapter may claim this credit.

For purposes of this section:

...

'Small business' means a for-profit enterprise which is a corporation, partnership, limited liability company, sole proprietorship or other form of business entity consisting of having fewer than one hundred full-time or part-time employees.

(b) The tax credit under this section, when claimed by:

- (1) Either an individual resident tax payer or a husband and wife filing a joint tax return that own a small business; or
- (2) A small business that is ~~a corporation, partnership, limited liability company, or other form of a~~ business entity;

may be claimed only once in the taxable year with respect to the small business, regardless of the number of owners under paragraph (1) or the number of ~~shareholders, partners or members corporate officer or other~~ owners under paragraph (2) . . . .

Again, thank you for the opportunity to comment on SB 1204.

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TO: COMMITTEE ON HUMAN SERVICES  
Senator Suzanne Chun-Oakland, Chair  
Senator Les Ihara, Vice Chair

COMMITTEE ON COMMERCE AND  
CONSUMER PROTECTION  
Senator Rosalyn H. Baker, Chair  
Senator David Y. Ige, Vice Chair

FROM: Eudice R. Schick  
PABEA (Policy Advisory Board for Elder Affairs)

SUBJECT: SB 1204 RELATING TO LONG TERM CARE

HEARING: Tuesday, February 17, 2009 1:15 p.m. rm 016

POSITION: Support of SB 1204

I am offering testimony on behalf of PABEA, the Policy Advisory Board for Elder Affairs, which is an appointed Board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA but of the Board.

SB1204 recognizes the great need that we are facing and will continue to face when dealing with the care of elderly and disabled family members. It clearly states the need for Long Term Care Insurance and offers a great means of purchasing and financing Long Term Care Insurance. If a small business has an incentive to purchase a group Long Term Care Insurance Policy the premiums will be reduced as most group rate insurance policies are. The policy should be a carry out policy so that the employee has the option to keep and maintain the policy at the same group rate as it was purchased at. The small business tax credit is certainly a definite means to achieve a very necessary goal, Long Term Care Insurance for a great many people who will be needing care.

Please support SB 1204.

Thank you for your consideration of this testimony.

Eudice R. Schick,  
Chair PABEA Legislative Committee

TESTIMONY SUBMITTED for Tuesday, Feb. 17, 2009

TO: COMMITTEE ON HUMAN SERVICES

Senator Suzanne Chun Oakland, Chair  
Senator Les Ihara, Jr., Vice Chair

TO: COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair  
Senator David Y. Ige, Vice Chair

TESTIMONY FOR HEARING on Tuesday, Feb. 17, 2009, 1:15 p.m., State Capitol Rm. 016

**SB 1110: Relating to Long-Term Care:** I testify in favor of this bill, knowing that the cost of Long Term Care, and increased longevity means that more individuals will “outlive” the Long Term Care Insurance benefits they have bought. There probably will be individuals who will exhaust their benefits, especially since the year 2011 is when Baby Boomers will turn 65 years of age and more will be living to beyond 85 years. This demographic reality means that we must put into place an “aging safety net” and infrastructure” with good public policy meant to meet the needs of a society that is living longer and will be demanding home and community-based services at an unprecedented rate.

**SB 1134: Relating to Long-Term Care:** I testify in favor of this bill as I think we need to “incentivize” individuals to invest in their own aging and personal demand for home and community-based services. A tax credit has long been talked about and, if enacted, would be another part of the “aging safety net and infrastructure” needed for an increasing aging society.

**SB 1204: Relating to Long-Term Insurance Tax Credit for Small Business:** I testify in favor of this bill as it addresses a solid fact, as solid as the “aging of society” and that is the “aging work force”. Not only are employees aging but they are more and more faced with care giving and issues related to their own aging and need for home and community-based services. An aging workforce means that Employers will increasingly see long term care insurance as needing to be added to their employee benefit packages. This is public policy that is cognizant of the increased importance of aging and longevity in society. “Incentivizing” Employers is also a part of good aging policy.

Mahalo,  
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**BCC: JACOSA ListServe, Maui County State Legislators, PIO Mahina Martin**

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SENATE COMMITTEES ON HUMAN SERVICES AND  
COMMERCE & CONSUMER PROTECTION

TESTIMONY REGARDING SB 1204  
RELATING TO LONG-TERM CARE

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)  
DATE: FEBRUARY 17, 2009  
TIME: 1:15PM  
ROOM: 016

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This bill creates an income tax credit to encourage Hawaii employers to purchase qualified long-term care insurance for their employees. This tax credit is phased-in over two years and will be equal to the greater of \$500 or 50% of qualified long-term care premiums paid per employee.

The Department of Taxation (Department) **supports the intent** of this measure and has supported such measures in the past; however **cannot support the unbudgeted revenue loss this session.**

**I. TECHNICAL ISSUES**

The Department notes that the current drafting of the bill appears to apply at the entity level for partnerships and other flow-through business entities. The Department suggests that any reference to the credit claim for partnerships or limited liability companies clearly distinguish that the credit is determined at the entity level. The Department further points out that partnerships and limited liability companies treated as partnerships for tax purposes typically never receive tax treatment—*it is the owners that receive all incidences of taxation*. Under the current drafting of the bill, a statement providing that for partnerships or other flow-through entities the credit is determined at the entity level, this will allow the credit to be distributed to partners in proportion to their partnership interests.

The following language would be helpful:

"( ) In the case of a partnership, S corporation, estate, or trust, the tax credit allowable shall be determined at the entity

level. Distribution and share of credit shall be determined in accordance with section 235-2.45(d)."

## **II. OPPOSED TO UNBUDGETED REVENUE LOSS**

While the Department supports the intent of this bill, the Department cannot support the tax provision in this measure this session because it is not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, this measure would add to the budget shortfall.

## **III. REVENUE IMPACT**

Assuming this measure takes effect immediately, annual revenue loss amounts to \$900,000 for FY 2010 and thereafter.