ACT 155

H.B. NO. 2255

A Bill for an Act Relating to Life Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend Hawaii'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; or~~

~~(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.~~] <u>may be paid entirely by the employer, or by funds paid entirely by the insured employees, or by funds contributed by both the employer and the insured employees.</u> 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;

(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)~~] (4) 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.

(Approved June 9, 2008.)