

Honolulu, Hawaii

March 2, 2006

RE: H.B. No. 2319
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 2319 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose of this bill is to update and streamline the insurance statutes in conformity with federal law and national standards and improve Department of Commerce and Consumer Affairs (DCCA) Insurance Division (Division) efficiency by:

- (1) Allowing the Insurance Commissioner (Commissioner) to require insurers, mutual benefit societies, and health maintenance organizations to provide information prescribed by the National Association of Insurance Commissioners ("NAIC") (sections 431:3-212, 432:1-301, and 432D-2, Hawaii Revised Statutes (HRS));
- (2) Defining "gross premiums" as the amount of the policy or coverage premium charged by the insurer in consideration of the insurance contract, excluding fees or other charges added by the broker (sections 431:8-205 and 431:8-315, HRS);
- (3) Allowing service of process on an unauthorized insurer's agent (section 431:8-207, HRS);



- (4) For surplus lines broker, adjuster, or independent bill reviewer licenses, requiring inactivation for failure to pay fees or penalties, and allowing under certain conditions, reinstatement without examination for licenses that are inactive because of renewal fee nonpayment (section 431:8-310 and 431:9-232 HRS);
- (5) Making the penalty for a surplus lines broker's failure to file an annual statement or remit tax, discretionary instead of mandatory (section 431:8-316, HRS);
- (6) Conforming the definitions of "adjuster" and "independent bill reviewer" in section 431:9-105, HRS, to existing definitions in sections 431:9-105 and 431:9-241, HRS;
- (7) Requiring insurance producers, adjusters, and independent bill reviewers to notify:
 - (A) The Commissioner of the applicant's legal and trade name and before using an assumed name, and of any change of status, including name, address, phone or fax number, or email or website address; and
 - (B) The Business Registration Division of any change in status if the licensee is a registered business entity or has registered a trade name,

(sections 431:9-203, 431:9A-107, and 431:9A-110, HRS);
- (8) Consolidating the section authorizing adjuster and bill reviewer license sanctions with provisions setting forth license sanction procedures (section 431:9-235, HRS);
- (9) Removing an unnecessary limitation on the scope of article 9A, governing insurance producer licensing (431:9A-101, HRS);
- (10) Removing the requirement that insurers provide a program of instruction for persons selling, soliciting, or negotiating limited line credit insurance (431:9A-106, HRS);
- (11) Removing the residency restriction on persons able to acquire an insurance producer's license by examination (431:9A-105, HRS);



- (12) Requiring a hearing on the Commissioner's imposition of license sanctions or civil penalties within 30 instead of 20 days of receipt of the written demand for a hearing (431:9A-112, HRS);
- (13) Changing continuing education requirements by:
- (A) Requiring licensees to complete continuing education requirements in the 24 instead of 23 months prior to license renewal, and course providers to electronically submit certificates of completion to the Division within 15 days, instead of a month, of course completion (sections 431:9A-124, 431:9A-152, 431:9-154, and 431:9A-158 HRS);
 - (B) Ensuring that course providers have valid continuing education course provider certificates and allowing the Commissioner to suspend or revoke a certificate under certain circumstances (section 431:9A-151, HRS);
 - (C) Requiring course providers to submit applications for course approval to the Commissioner at least 60 days before the course will be offered, requiring prior approval before advertising or soliciting for the course, and providing that a continuing education course certificate may be renewed once for a two-year rather than one-year period (section 431:9A-153, HRS); and
 - (D) Clarifying that the effective date of a completed examination is the date the course provider receives the completed examination (section 431:9A-154, HRS);
- (14) Specifying that the exemption for self-employed persons from accident and health or sickness policy mandated coverages includes individuals included in the person's family coverage (section 431:10A-603, HRS);
- (15) Specifying that insurer and managed care plan filings are to consist of two printed copies and one telephonic, optical, or electronic copy (sections 431:14-104 and 431:14F-105, HRS);



- (16) Providing that surplus lines brokers are subject to Hawaii law, rather than the law of the surplus lines broker's state of domicile (section 431K-8, HRS);
- (17) Removing sellers of motor vehicle service contracts from regulation as "providers," under the service contract law (section 481X-2, HRS);
- (18) Clarifying that a service contract provider must place in trust a security deposit that is the larger of, instead of not less than, \$25,000 or 5 percent of the gross consideration received, less claims paid for the sale of service contracts (section 481X-4, HRS); and
- (19) Making numerous technical, nonsubstantive amendments.

Your Committee received testimony in support of this bill from DCCA. The National Association of Insurance and Financial Advisers supported the bill in part. The American Council of Life Insurers, Hawaii Insurers Council, Hawaii Medical Service Association, and State Farm Insurance Companies commented on the bill.

Upon further consideration, your Committee has amended this measure by:

- (1) Removing the sections requiring insurers to provide additional information as prescribed by NAIC;
- (2) Removing the reference to "independent" in the term "nonresident independent adjuster" in connection with the license exemption for these adjusters following a catastrophe;
- (3) Removing the requirement that an insurance producer notify the Commissioner of a change in home phone number; and
- (4) Making technical, nonsubstantive amendments for clarity and consistency.

Your Committee finds that the amendment to the nonresident adjuster exemption will allow State Farm to bring in its team of insurance adjusters from around the nation in the event of a catastrophe. The other amendments made by your Committee will



remove unduly burdensome requirements that would have been imposed by the bill.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2319, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2319, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ROBERT N. HERKES, Chair



