

STAND. COM. REP. NO.

563

Honolulu, Hawaii

FEB 16 2007

RE: S.B. No. 1412  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Madam:

Your Committees on Commerce, Consumer Protection, and Affordable Housing and Judiciary and Labor, to which was referred S.B. No. 1412 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE FRAUD,"

beg leave to report as follows:

The purpose of this measure is to establish the Insurance Fraud Investigations Branch, within the Department of Commerce and Consumer Affairs, to replace the existing Insurance Fraud Investigations Unit in order to prevent, investigate, and prosecute (both civilly and criminally) insurance fraud relating to all lines of insurance, except workers' compensation insurance.

This measure also establishes administrative, civil, and criminal penalties and requires that fines and settlements resulting from successful fraud prosecutions are to be deposited into the Compliance Resolution Fund to help the Insurance Fraud Investigations Branch cover some of its costs of operation.

Your Committees received testimony in support of this measure from the Department of Commerce and Consumer Affairs, the Department of the Attorney General, the Hawaii Insurers Council, the National Association of Insurance and Financial Advisors, State Farm Insurance Companies, the Hawaii Medical Service Association, and the Hawaii Association of Health Plans. Comments on this measure were submitted by the American Council of Life Insurers.



Your Committees find that no line of insurance is immune to the problem of insurance fraud. The intent of this measure is to expand Hawaii's insurance fraud laws to include all lines of insurance , except workers' compensation, by establishing an Insurance Fraud Investigations Branch to replace the existing Insurance Fraud Investigations Unit; establishing administrative, civil, and criminal penalties for all types of insurance fraud; and requiring that fines and settlements resulting from any prosecutions be deposited into the Compliance Resolution Fund to allow the Insurance Fraud Investigations Branch to cover some of its costs.

Your Committees further find that this measure is the result of a collaborative effort between the Department of Commerce and Consumer Affairs and members of the insurance industry and this measure constitutes a consensus among the stakeholders on how to address the problem of insurance fraud in the State.

Your Committees have amended this measure, based upon the recommendation of the American Council of Life Insurers, to provide a higher standard of actual malice with regard to the reporting of insurance fraud in order to protect those reporting insurance fraud from frivolous lawsuits and to provide a greater incentive for reporting fraud.

Your Committees have also amended this measure, based upon the testimony of the Hawaii Medical Service Association, by removing the reference to insurers with regard to investigation and prosecution, and by removing the section relating to required language in health plan applications and claims forms because the language for these forms follow federal law and are provided by the Centers for Medicare and Medicaid Services.

Your Committees note that the amendments recommended by both the American Council of Life Insurers and the Hawaii Medical Service Association were agreeable to the Department of Commerce and Consumer Affairs, the Department of the Attorney General, State Farm Insurance Companies, and the National Association of Insurance and Financial Advisors.

Furthermore, your Committees note that the Insurance Commissioner stated that this measure does not include workers compensation.



Your Committees also made technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Affordable Housing and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1412, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1412, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Commerce, Consumer Protection, and Affordable Housing and Judiciary and Labor,



CLAYTON HEE, Chair



BRIAN T. TANIGUCHI, Chair



The Senate  
 Twenty-Fourth Legislature  
 State of Hawaii


**Record of Votes**  
**Committee on Commerce, Consumer Protection and Affordable Housing**  
**CPH**

Bill / Resolution No.:* <b>SB 1412</b>	Committee Referral: <b>CPH/JDL,WAM</b>	Date: <b>2/14/07</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
IGE, David Y. (VC)				✓
ESPERO, Will	✓			
IHARA, Jr., Les				✓
SAKAMOTO, Norman	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<b>4</b>	<b>-</b>	<b>-</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-size: 1.5em; font-family: cursive;">N. Salcedo</div>				
Distribution:             Original             Yellow             Pink File with Committee Report             Clerk's Office             Drafting Agency				

\*Only one measure per Record of Votes

The Senate  
Twenty-Fourth Legislature  
State of Hawaii

Record of Votes  
Committee on Judiciary and Labor  
JDL

Bill / Resolution No.:* <b>SB 1412</b>	Committee Referral: <b>CPH/SDL, WAM</b>	Date: <b>2/14/07</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	/			
KOKUBUN, Russell S. (VC)	/			
INOUE, Lorraine R.				/
NISHIHARA, Clarence K.				/
GABBARD, Mike	/			
<b>TOTAL</b>	<b>3</b>			<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	

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