

STAND. COM. REP. NO.

860

Honolulu, Hawaii

MAR 02 2007

RE: S.B. No. 170
S.D. 1

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

Madam:

Your Committee on Commerce, Consumer Protection, and
Affordable Housing, to which was referred S.B. No. 170 entitled:

"A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES,"

begs leave to report as follows:

The purpose of this measure is to allow captive insurance
companies to be formed as limited liability companies, to clarify
the minimum capital and surplus requirements, and increase the
investment flexibility for pure captives.

Written comments in support of this measure were submitted by
Willis Management (Hawaii) and one individual. The Department of
Commerce and Consumer Affairs submitted written comments on this
measure.

Your Committee finds that while Hawaii is the second largest
captive insurance domicile in the United States, it is facing
increasing competition from other states that have recognized the
value of implementing captive insurance enabling regulations.

Your Committee further finds that the Hawaii Revised Statutes
do not currently allow for the formation of captive insurance
companies to form as limited liability corporations or limited
liability companies, while other states do. This leaves Hawaii
unable to compete with other captive domiciles for this type of
business. This measure will help Hawaii to continue to be a
leading captive insurance domicile by maintaining captive



insurance companies already domiciled in Hawaii and attracting new captive insurance companies in the future.

Your Committee has amended this measure by:

- (1) Amending the definition of "affiliated entity" in section 431:19-101, Hawaii Revised Statutes (HRS), to clarify that, in the case of a pure captive insurance company, the affiliated entity risks insured by the pure captive insurance company are directly or indirectly controlled in some manner by the parent or an affiliate of the parent company of the pure captive insurance company;
- (2) Requires the Insurance Commissioner to designate the Captive Insurance Administrator as a Deputy Commissioner, with the approval of the Director of Commerce and Consumer Affairs;
- (3) Implementing various amendments to article 19 of chapter 431, HRS, to allow the formation of captive insurance companies as limited liability companies;
- (4) Changing how independent advisors are selected by allowing the Insurance Commissioner to use independent advisors and consultants to assist in the review and analysis of a specific application or business plan amendment in section 431:19-102(f), HRS;
- (5) Consolidating the minimum capital and surplus requirements and consolidating the minimum required capital and surplus for association captive insurance companies and risk retention captive insurance companies at \$500,000;
- (6) Eliminating the requirement in section 431:19-106(c), HRS, that there be no fewer than three incorporators of the captive;
- (7) Eliminating the requirement in section 431:19-106(g), HRS, that the board of directors or other governing body of the captive insurance company have a Hawaii resident director;



- (8) Revising the framework for regulation of investments of captive insurance companies, and in so doing, providing greater flexibility to captive insurance companies, other than class 3 risk retention captive insurance companies;

Requires that the captive insurance company's reserves are invested pursuant to an approved strategic investment policy, or in the case of a class 3 risk retention captive insurance company or a captive without an approved strategic investment policy, in investments in accordance with article 6 of the Insurance Code;

- (9) Allowing the Insurance Commissioner to require a captive insurance company to file a complete disclosure of the identity, background, and experience of key individuals or staff involved with its investment activities and administration;
- (10) Requiring each captive insurance company, consistent with approval and record keeping requirements in article 6, to maintain in its principal office in Hawaii, a written record documenting its investment transactions and documents evidencing the authorization or approval of the investments by the captive insurance company's governing body or its designated representative; and
- (11) Making other technical, nonsubstantive changes for purposes of style, clarity, and consistency.

Your Committee notes that these amendments were agreed upon by the Department of Commerce and Consumer Affairs and the Hawaii Captive Insurers' Council.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Affordable Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 170, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 170, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Affordable
Housing,



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.:* SB 170	Committee Referral: CPH	Date: 2/22/07		
<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	✓			
TOTAL	4			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">David Y Ige</div>				
Distribution: Original Yellow Pink File with Committee Report Clerk's Office Drafting Agency				

*Only one measure per Record of Votes