

Honolulu, Hawaii

FEB 29 2008

RE: S.B. No. 2313
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred S.B.
No. 2313 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Replace the existing Insurance Fraud Investigations Unit in the Insurance Division of the Department of Commerce and Consumer Affairs with a new Insurance Fraud Investigations Branch that will investigate and prosecute fraud in all lines of insurance, except workers' compensation;
- (2) Expand administrative, civil, and criminal penalties for fraud in all lines of insurance, except for workers' compensation, and for different types of insurance fraud, including fraudulent applications and sales; and
- (3) Require that all fines and settlements resulting from successful insurance fraud prosecutions be deposited into the Compliance Resolution Fund to help the Insurance Fraud Investigations Branch to fund its operational expenses.

Your Committee received testimony in support of the measure from the Department of Commerce and Consumer Affairs, the American Council of Life Insurance, the National Association of Insurance



and Financial Advisors, the Property Casualty Insurers Association of America, and State Farm Insurance Companies. Comments were submitted by ILWU, Local 142.

Your Committee notes that while the section 1 of the measure states that its purpose is to expand the jurisdiction of insurance fraud investigations to all lines of insurance except workers' compensation, the operative provisions of the bill do not specifically exclude workers' compensation. The measure also appears to draw a distinction between lines of insurance for the purpose of defining the type of sanctions - criminal, civil, or administrative - that are applicable.

Your Committee also notes that the measure appears to designate attorneys in the Insurance Fraud Investigations Branch as special deputies attorney general but gives the attorney general discretion to make - or withhold - the designation. Finally, your Committee is concerned that, as presently worded, the measure's repeal of certain insurance fraud statutes could unintentionally terminate investigation of offenses committed before its effective date.

On further consideration, your Committee has amended the bill by:

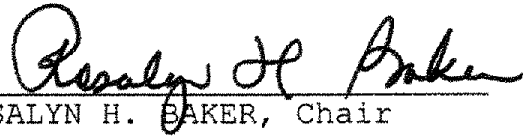
- (1) Amending the operative language of the bill to expand the jurisdiction of insurance fraud investigations to all lines of insurance while specifically excluding workers' compensation;
- (2) Making it clear that attorneys representing the State in insurance fraud prosecutions shall be designated special deputies attorney general by operation of law, without need of designation by the attorney general;
- (3) Clarifying that criminal, civil, and administrative sanctions apply to fraud in all lines of insurance except workers' compensation;
- (4) Adding language to ensure that insurance fraud offenses committed prior to the effective date of the measure can still be prosecuted under the statutory provisions in effect at the time the offenses were committed; and



- (5) Making technical nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2313, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2313, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



ROSALYN H. BAKER, Chair



