

Honolulu, Hawaii

FEB 12 2008

RE: S.B. No. 3021

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 Commerce, Consumer Protection, and
Affordable Housing, to which was referred S.B. No. 3021 entitled:

"A BILL FOR AN ACT RELATING TO VIATICAL SETTLEMENTS,"

begs leave to report as follows:

The purpose of this measure is to provide protections for
terminally or chronically ill consumers and healthy, elderly
consumers who wish to sell their insurance policies to third party
brokers in return for a portion of the death benefit.

Specifically, this measure provides the following:

- (1) Authorizes the Insurance Commissioner to license persons
working in the viatical settlements industry, including
the authority to examine the business and affairs of any
licensed viatical settlement provider or broker;
- (2) Regulates and combats viatical fraud and provides
administrative and criminal penalties for violations;
- (3) Provides various consumer protections, such as the
requirement to disclose to consumer possible
alternatives to viatical settlement contracts, and
information regarding tax consequences and the right of
the viator to rescind the viatical settlement contract;



- (4) Requires the filings of viatical settlement promotional, advertising, and marketing materials with the Insurance Commissioner;
- (5) Protects the viator's identity and privacy; and
- (6) Imposes a five-year prohibition on settling a life insurance policy to force investors to wait a longer period of time before being able to own the policy.

Testimony in support of this measure was submitted by the Department of Commerce and Consumer Affairs, the National Association of Insurance and Financial Advisors, the Life Settlements Institute, and the American Council of Life Insurers.

A viatical settlement is the sale of a life insurance policy by the policy owner for an immediate cash benefit. It is a tool that typically can provide the policy owner who sells the policy with more funds than could have been realized if the policy had been surrendered to the insurer. These transactions usually involve terminally or chronically ill individuals (the viator) who want to sell their insurance policy to a third party or secondary market, in return for a portion of the death benefit. Your Committee finds that this measure, which adopts the National Association of Insurance Commissioners' Viatical Settlements Model Act, will provide added protections for insureds who may be enticed into viatical settlements and face unexpected taxes, transaction fees, loss of insurance capacity, legal costs, and loss of privacy with respect to their medical records.

Concerns were raised regarding the imposition of a five-year prohibition on settling of a life insurance policy. Regardless of the number of years, your Committee believes that a waiting period on settling a life insurance policy will force investors to wait a longer period of time before being able to own the policy, which makes the transaction less attractive as an investment. Your Committee recognizes that purchasing life insurance as an investment is counter to the purpose of acquiring life insurance.

Accordingly, your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to ensure continued discussion on this issue by the Committee on Judiciary and Labor; and

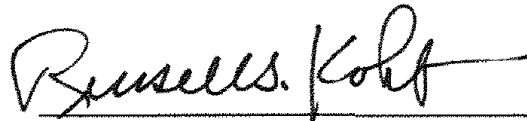


- (2) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee believes that this measure, as amended, fulfills the intent of this measure, which is to provide protections for terminally or chronically ill consumers and healthy, elderly consumers who wish to sell their insurance policies to third party brokers in return for a portion of the death benefit.

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. 3021, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3021, S.D. 1, and be referred to the Committee on Judiciary and Labor.

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



RUSSELL S. KOKUBUN, Chair



