PRESENTATION OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
TO THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,
AND AFFORDABLE HOUSING
SUPPLEMENTAL BUDGET REQUEST FOR FISCAL YEAR 2009

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION

JANUARY 18, 2008

TO THE HONORABLE RUSSELL S. KOKUBUN, CHAIR
AND MEMBERS OF THE COMMITTEE

Program Structure Number: 10 01 03 06
Program ID: CCA-106
Program Title: Insurance Services
Page References in the Multi-Year Program and Financial Plan:

1. Introduction:

a. Summary of program objectives.

To ensure that consumers are provided with insurance services meeting acceptable standards of quality, equity, and dependability at fair rates by establishing and enforcing appropriate service standards and fairly administering the Insurance Code.

Statutory Reference: Chapter 287, 386, 386A, 392, 393, 431, 431K, 431L, 431M, 431N, 431P, 432, 432C, 432D, 432E, 435C, 435E, 448D, 481R, 481X and 488, HRS.

b. Description of program objectives.
Present your summary of objectives and activities as discussed in the Multi-Year Program and Financial Plan.

The program regulates, examines, and licenses insurance entities doing business in the State, regulates, examines and monitors the financial condition of domestic insurers; examines and licenses sales producers and brokers; reviews policy rates & forms filings; receives and investigates complaints; administers appeals pursuant to the patients' bill of rights & responsibility act; regulates captive insurers and develops Hawaii as a captive insurance domicile; and prosecutes automobile insurance claims fraud.

The program is responsible for the regulatory oversight of the insurance industry. The major activities are:

i. Review of insurance entities' financial operating and tax statements;

ii. Field examinations of insurers, health maintenance organizations, rating organizations, mutual and fraternal benefit societies, advisory organizations, agencies, independent claims organizations, and guaranty associations;

iii. Qualification examinations and licensing insurers, health maintenance organizations, and producers to transact insurance;

iv. Review and evaluation of captive insurance application and business plan amendments, process initial and renewal licenses, planning and implementation of financial and operational surveillance and examinations, and promotion and development of Hawaii's captive insurance industry;

v. Analysis of approval or disapproval of policies and rate filings;

vi. Administration of the Hawaii Joint Underwriting Plan, including the development and promulgation of motor vehicle insurance rates;

vii. Investigation of complaints by the public on alleged violations of insurance statutes and rules and other consumer request for assistance;

viii. Regulatory surveillance for market conduct and financial condition of all insurers, health maintenance organizations, and mutual and fraternal benefit societies for compliance with insurance laws; and

ix. Investigation of violations and enforcement of motor vehicle claims fraud law.

c. Explain how your program intends to meet its objectives in the upcoming supplemental year.

The program will strive to meet its statutory requirements and goals for its program activities and meet its objectives for each year in the biennium. Through proper personnel and case load management, the program will examine all insurers within the period required by statute, resolve all complaints filed against insurance licensees and all reported motor vehicle claims insurance fraud, review all insurance policy forms and premium rate filings within the statutory waiting time period, and fulfill the statutory mandated provisions of the insurance code.

2. Program Performance Results:

a. Discuss the performance results achieved by the program in FY07:

The program achieved its performance goal in FY 2007. Performance goals and results for FY 2007 were as follows:

	FY 07 Results
Complaints resolved within 90 days	99%
Financial examinations completed within statutory time requirement	100%
Rate and policy filings reviewed within statutory time requirement	90%
Resolve motor vehicle fraud cases in favor of the State	100%
Review and resolve captive insurance related issues within statutory mandate and program time requirements:	

Applications and business plan amendments…	100%
Triennial and organizational examinations..…	60%

b. **Explain how these results relate to the program's objectives and department's mission.**

The Division's objectives and the performance goals are measures to ensure that consumers are provided with insurance services meeting acceptable quality and standards. The results relate directly to the Department's objective of consumer protection.

c. **Explain how the effectiveness of the program is measured (i.e., outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.**

The following are the program measures and performance results:

i. The Compliance and Enforcement Branch and Health Insurance Branch investigators resolved approximately 99% of consumer complaints (excluding cases referred for formal resolution by administrative hearing) within 90 days during the past two years. The complaints were alleged violations of insurance statutes and rules by insurance licensees. Resolving complaints from consumers may provide restitution to the consumer, could result in the insurance licensee paying a fine, and/or educate the consumer on the provisions in the insurance law applicable to the complaint. The Division received over 491 complaints and request for assistance in FY 2006-07. The Branch measures its performance based on number of complaints resolved and dollar amounts saved.

ii. The Financial Surveillance and Examination Branch conducted 100% of the examination of insurers within the statutory time frame in the past two years. Financial statements of twenty domestic insurers and eighteen risk retention groups are subject to in-depth analytical procedures on a quarterly basis and financial examinations are conducted at least once every five years. Analytical procedures and examinations of an insurance company’s financial condition provide a means to detect early warning signs of trouble that may allow for the introduction of remedial measures and prevention of future insolvencies. Analytical and examination procedures are subject to an accreditation review by National Association of Insurance Commissioners. This process provides a measure of protection for the consumers and requires insurance companies to be in compliance with the insurance laws.

    In addition to financial surveillance, the Branch also licenses or registers foreign insurers, risk purchasing groups and risk retention groups; reviews mergers, acquisitions and service contract provider submissions; reviews more than 6,000 quarterly and annual premium tax returns; and collects and processes more than $90 million in premium taxes

iii. The Rates & Policy Analyst (RPA) Branch completed 90% of form and rate filing reviews within the statutory time requirements during the last two years. The requirement for the various lines of insurance are: 30 days for casualty, homeowners, property, inland marine, motor vehicle, surety, and title; 45 days for credit life and credit disability; 61 days for Medicare Supplement; and 90 days for workers' compensation insurance. Reviewing rate filings and form filings protects consumers from unjustified premium rate increases or unjustified inclusion or exclusion of benefits. During the most recently completed year, approximately 6,300 forms and rate filings were analyzed.

iv. In FY 2006-07 the Insurance Fraud Investigation Branch received 161 referrals and obtained indictments against 42 individuals. The branch obtained restitution totaling $52,575, fines totaling $11,445, payments in the amount of $2,640 to the Crime Victim Compensation Fund, probation services fees in the amount of $1,000 and community service totaling 570 hours.

In FY 2006-07, the Fraud Unit met with various insurance companies, the Hawaii Chapter of the Special Investigators Unit, the Hawaii Claims Manager's Association, National Insurance Crime Bureau, and a few public schools.

v. The Captive Insurance Branch completed 100% of its review and evaluation of captive applications and business plan amendments within 30 days of receipt, and 60% of required FY 2006 organizational and triennial examinations. Backlog of required exams was substantially reduced in FY 2007 because of additional examination staff and more efficient management and supervision of examinations. Decrease in new licenses from 10 in FY 2006 to 6 in FY2007 is consistent with other captive domiciles and is attributable to general softening of commercial insurance market prices and increase in competition from other U.S. captive domiciles (to approximately 30 states). Recap of significant results include:

	FY 2006	FY 2007
Introductory Meetings	15	12
New Application Reviews	12	10
New Captive Licenses Issued	10	6
Active Licenses at Year End	160	165
Business Plan Changes	753	497
Triennial Examinations	59	48
Organizational Examinations	25	19
Special Examinations	0	1
Financial Filings Reviewed	1,361	1,548
Informational Briefings	35	40

d. Discuss actions taken by the program to improve its performance results.

Education and training were used as a means to increase productivity of the staff. The staff attends the Department of Human Resources Development (DHRD) offered classes and training conducted by other educational providers, including the National Association of Insurance Commissioners (NAIC). Our examiners, investigator, rate and policy analyst staff, staff attorneys and fraud unit staff attended classes and conferences offered by the NAIC for state insurance regulators.

The Division has automated operations for quicker processing and the operations and the use of the internet allowed for a cost effective manner to disseminate information.

e. Identify all modifications to your program's performance measures and discuss the rationale for these modifications.

None.

3. Problems and Issues:

a. Discussion of problems and issues encountered, if any.

1. Financial Surveillance.

In 2006, the Division underwent an accreditation review by the NAIC and retained its accreditation status for a full five-year term. The accreditation program requires states to have and maintain adequate statutory and administrative authority as well as sufficient resources to effectively regulate the financial solvency of insurance companies. Failure to meet these standards could result in loss of accreditation status or receive less than a full five-year accreditation status. Loss of accreditation status prevents other states from relying upon the analytical and examination work performed by the Hawaii Insurance Division.

Financial oversight, including analytical reviews of quarterly and annual statements and scheduled examinations of Hawaii’s domestic insurers and risk retention groups must be conducted in accordance with procedures established by the NAIC.

In 2005, a statute change went into effect which allows examinations of domestic insurers and risk retention groups to be conducted at least once every five years instead of every three years. However, examinations may be performed as often as necessary to ensure effective surveillance.

The resources necessary to maintain the financial surveillance program and the NAIC accreditation are provided by the Division’s Compliance Resolution Fund.

2. Court Seizures of Insurance Entities

a. HUI/UNICO in Liquidation, Inc.

HUI/UNICO in Liquidation, Inc., is the successor entity to Hawaiian Insurance & Guaranty Co., Ltd. (HIG), Hawaiian Underwriters Insurance Co., Ltd. (HUI) and United National Insurance Co., Ltd.

(UNICO). HIG, HUI, and UNICO offered property and casualty insurance to residents of Hawaii until 1992.

Following the devastation of Hurricane Iniki in September 1992 and the resulting claims for property damage, HIG, HUI, and UNICO began experiencing problems paying policyholder claims. The Circuit Court entered a seizure order directing the Insurance Commissioner to take possession and control of HIG, HUI, and UNICO. HUI/UNICO is in liquidation, running off its remaining claims.

The Liquidator assisted the State Attorney General in the prosecution of the former counsel of HUI/UNICO for the misappropriation of $7.9 million from the estate. The Liquidator is also assisting the Attorney General in reviewing the past practices of other administrative personnel and independent contractors who were associated with the liquidation of HUI/UNICO. The recovery of all missing moneys is complete and a review of past billing practices has been undertaken. A civil suit for over billing has been settled with additional moneys returned to the estate. Continuous investigations are being conducted by the Liquidator and the Insurance Division to discover if there were any other fraudulent activities occurring while the former administrators were in control of the trust. The federal government has yet to state as to whether it will file a claim against the prior administrators of the trust.

b. Investors Equity Life (IEL).

The company was seized and ordered liquidated in 1994. Over $20 million in policyholders' claims have been disbursed. The trust has won a lower court ruling in the federal district court in 2004. A judgment against ADM Investor Services (ADMIS) was filed in the 9th Circuit on June 30, 2005, and the federal appeal period ran on September 29, 2005. The federal court action on this matter is complete though there still is pending State court action.

c. Nene Insurance Inc.

This agency of an insurance general agent was seized and ordered liquidated in 1995.

Creditor claims forms were mailed, returned, and examined. The trust is currently finalizing and processing all claims' decisions. The trust has not received any appeals, as of yet, on any claims' decision. The federal government has issued a waiver releasing the trust from claims from the federal government. A final distribution will be made in the near future.

d. Pacific Group Medical Association (PGMA).

PGMA was seized and ordered liquidated in 1997. Distribution of $8 million in assets was made in December 2002 to claimants. There are plans to make a second distribution of approximately $1.8 million once State and federal appeals in collateral cases are concluded.

The liquidator will not be able to close PGMA until appeals remaining in federal and State courts are decided. The State court has approved a payment by the trust to the federal government in regards to a claim. A final distribution will be made in the near future.

e. Hawaii Healthcare Alliance (HHA).

HHA was seized in 2000 and ordered liquidated in 2001. Asset recovery has been made and there is no litigation remaining. The federal government has yet to state as to whether it will file a claim against the trust.

f. HIH America Insurance Company of Hawaii (HIH).

HIH was seized and ordered liquidated in 2001. When seized in March 2001, HIH Hawaii owed an estimated $26.8 million dollars in policy liability claims and claims expenses and owed another $15 million in intercompany agreements (with its sister and parent companies also in liquidation in California and Australia) and other claims. HIH Hawaii had only $22.2 million in assets at that time. Through the implementation of an effective case review and management of claims, HIH Hawaii's claims liability was reduced by $5.5 million. At the same time, another $2.8 million in outstanding premium was captured. Negotiations with HIH Hawaii's sister and parent companies collected another $1 million and $1.4 million, respectively. The California liquidator also agreed to pay off Hawaii creditors 100% first with any remaining moneys left over to pay for creditors in other states.

$21.3 million was authorized to pay for workers compensation claims so that medical providers and injured workers could get immediate and timely financial relief. So far:

a) All medical providers, claimants, and administrative/claims management vendors who had pre-seizure claims against HIH Hawaii have received 100% payment on their claims;
b) 100% of workers compensation claims and claims expenses have been paid;
c) The Hawaii Insurance Guaranty Association, the guaranty fund which paid claims for HIH Hawaii after HIH Hawaii went into liquidation, received 100%

reimbursement in advance for policy claim payments and expenses;

d) HIH Hawaii policyholders have received 100% of their unearned premium refunds; and

e) Hawaii policyholders are projected to receive 100% of their retrospective premium refunds which are estimated to be $1,638,261.

The federal government has yet to determine the trust's tax liability and has also yet to state as to whether it will file any claim against the trust.

g. Hawaii Dental Health Plan (HDHP).

HDHP was seized and ordered liquidated in 2001. The claims period has closed and final distribution of assets will be made in the near future.

h. Primeguard Insurance Company, Inc., A Risk Retention Group (PG-RRG)

PG-RRG is a captive insurance company that was initially granted its license in 1998, and placed into supervision on October 12, 2005 because of a potentially hazardous financial condition. It was subsequently placed into liquidation on December 19, 2005. The liquidation is currently in the claim filing process and once a determination is made, proceeds are anticipated to be distributed by the Liquidator pursuant to State court order

To avoid submitting to Hawaii jurisdiction and being liquidated, warranty companies which had Primeguard as an insurer filed for bankruptcy in the Colorado federal bankruptcy court in 2006. The Colorado federal court has yet to agree that the Hawaii circuit court has primary jurisdiction in this matter and State liquidation proceedings have been continued while jurisdictional issues are being litigated in Colorado. The goal of the Liquidator is to have the bankrupt warranty companies consolidated into the Hawaii insurer liquidation process where a single claim and distribution process may efficiently be applied.

i. Hawaiian Insurance and Guaranty Company, Ltd. (HIG, Ltd)

On June 19, 1995, Vesta Fire Insurance Corporation acquired all of the issued and outstanding stock of HIG Ltd. from HUI/UNICO in Liquidation, Inc. HIG Ltd. wrote motor vehicle, homeowners and earthquake insurance in Hawaii and California.

HIG was placed into rehabilitation on June 30, 2006 and into liquidation on August 21, 2006 due to insolvency. At the time of the Liquidation

Order, HIG Ltd. had assets of approximately $17 million and liabilities of approximately $30 million. Continuation of its business would be hazardous to its policyholders, creditors and the public.

The Liquidator was successful in completing the sale of HIG's Hawaii business to a mainland insurer who provided continued coverage for HIG Hawaii policy holders.

The Liquidator is pursuing the wrap up of HIG Ltd.'s other business and pursuing recovery of HIG Ltd.'s assets for its policyholders and creditors.

3. Captives.

Although the number of new captive licenses issued declined from 10 in FY 2006 to 6 in FY2007, the financial size of new licensees and backgrounds of their owners continue to be large and high quality. For FY 2006, Hawaii's 160 captives wrote US$ 1.7 billion in premiums, and had US$ 6.1 billion in total assets. Hawaii continues to attract new owners from the U.S. mainland and Japan. The captive industry continues to significantly contribute to Hawaii's economy with US$ 1.1 billion being invested through financial institutions in Hawaii, employment of approximately 100 professionals and an estimated direct spending of US$ 15 million for local captive services and meetings.

Despite the fact that increasing competition from other U.S. captive domiciles and general softening of the commercial insurance market has resulted in fewer new licensees in all captive jurisdictions, Hawaii should be able to attract and retain its share of new captive licensees as long as it continues to focus on maintaining an efficient regulatory environment that can prudently adapt to the dynamic needs of captive owners and also maintain the admiration and respect of its peers (i.e., other regulatory bodies) in the U.S. and abroad. Specialized training and education of captive examination staff, active participation in national and international regulatory and rule making bodies, and the effective utilization of the internet to disseminate and share relevant information in a timely manner with captive owners and promoters around the world will be keys to the continued development and success of Hawaii's captive industry.

4. Oversight of Operations Procedure and Practices Within the Insurance Industry.

In addition to the quinquennial financial examinations of insurance companies, the Division continues to monitor the activities of insurance agencies and other insurance entities throughout the State to ensure compliance with the Insurance Code. This area will remain important in 2007 to safeguard consumer interests and to maintain professionalism in the industry.

5. National Insurance Regulatory Issues.

Because the business of insurance is often conducted across state boundaries, it is imperative that coordination and consultation with other states be maintained on a regular basis. Of the more than 900 Property and Life insurance companies licensed to do business in Hawaii, only 20 are domiciled in the State. Sharing of financial information on the activities of these companies, the exchange of ideas on regulatory initiatives and the availability of expert resources on virtually all matters is critical to the Division's ability to carry out its mandates. In the past the Division's participation in the proceedings of the National Association of Insurance Commissioners has effectively provided the necessary network and has also served as a forum for the communication of Hawaii's concerns.

6. Information Systems and Automation of Manual Operations.

The Division's Hawaii Insurance Division System (HIDS) is an integrated system with the licensing module at it core and subsystems to support the other functions of the Insurance Division. HIDS was developed to provide better management of the large volume of transactions handled by the Division. It has eliminated manual processes and allowed for the dissemination of information through the internet.

The Division recently completed its HIDS enhancement project which modified existing applications and developed a subsystem for the Financial Surveillance & Examination Branch. The subsystem allow for the electronic submittal and collection of premium tax returns and payments. With these modifications to HIDS, continued interfaces with the NAIC and the Hawaii Information Consortium (they provide the internet portal for the State of Hawaii's web site) databases can be built. These interfaces will continue to improve the efficiency of the Division and provide better services and information via the web to consumers and insurance licensees.

7. Effects of the Natural and Man-made Catastrophes.

The 2004 and 2005 hurricanes and major flooding due to storm surge on the mainland have significantly impacted the cost of property reinsurance that is purchased by insurers to ensure their financial solvency. We require that primary insurers use Hawaii experience, and not losses from other areas of the country, but we do not regulate reinsurance and it is a legitimate business expense of insurers.

We have been successful in attracting new insurers to Hawaii, who provide hurricane coverage. The new insurers provide added capacity and additional competition which should help mitigate some of the availability problem.

The events of 9-11 in 2001 continue to have a dramatic impact in the insurance market place concerning the availability and affordability of terrorism coverage. It took federal action in 2002 and 2005, with the passage of the

Terrorism Risk Insurance Act (TRIA) and the 2005 Extension (TRIEA), to ease this problem. The 2007 Reauthorization of TRIA extends the program to 2014 and eliminates the requirement that the act was on behalf of any foreign person or foreign interest. The Comptroller General is required to further study availability and affordability of insurance coverage for losses caused by attacks involving nuclear, biological, chemical or radiological materials and other specific market effects (i.e., group life).

b. Program change recommendations to remedy problems.

1. Insurance Availability.

The Division continues to work with the industry both locally and nationally to encourage new companies to enter the Hawaii market and to enhance opportunities for existing licensed carriers to expand their markets. For example, new companies began doing business in Hawaii last year, providing hurricane coverage among other coverages.

The Division successfully introduced a bill for contractor defect notification to help contractors with liability insurance. In 2004, the Division successfully introduced a bill to establish Hawaii as a port-of-entry for alien insurers desiring to do business in the United States. The Division continues to successfully market Hawaii as a world leader in the captive insurance market and will promote Hawaii, geographically and financially, as a port-of-entry.

The Division has also proposed a number of NAIC Model Acts which promote uniformity and reciprocity with other states. This makes Hawaii more appealing to companies who are doing business in other states with similar laws.

2. Interstate Compacts to Promote Uniformity; Monitor Deregulation Activities.

With Act 104, Session Laws of Hawaii (SLH) 2004, Hawaii became a member of the Interstate Insurance Compact Commission to establish uniform standards for products under the compact, i.e., annuity, life, long term care and disability income. The Division will continue to actively participate in Commission meetings and, in accordance with the compact by-laws, the Commission shall provide written notice of proposed product standards to the legislative committees prior to formal implementation.

The Division will monitor the activities of the NAIC committees addressing deregulation of commercial lines insurance rates, life insurance, disability insurance, long term care insurance, and speed to market of insurance products. The Division will seek to continue its participation as a member of the NAIC's Interstate Compact Implementation Task Force, Workers' Compensation Task Force and the Joint Personal Lines and Commercial Lines Property and Casualty Committee at interim and national meetings on a regular basis.

3. Federal Actions.

Following the events of September 11, 2001, coverage for acts of terrorism was excluded from commercial liability and property policies. On November 26, 2002, the Terrorism Risk Insurance Act of 2002 (TRIA) was signed into law and further modified by the Terrorism Risk Insurance Extension Act of 2005 (TRIEA). TRIA and TRIEA provided federal government backing for insurers if the country sustained another serious loss from an attack by foreign terrorists. The Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA) extends the program to 2014 and eliminates the requirement that the act was on behalf of any foreign person or foreign interest. The Rate & Policy Analysis (RPA) branch will be reviewing and approving policy endorsements and rate filings consistent with TRIPRA that will allow insurers to continue to make available terrorism coverage. The availability of terrorism coverage will be monitored and future Comptroller General reports will be reviewed.

c. Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.

As an integral part of the nationwide state-based insurance regulatory system, the Insurance Division is changing and streamlining its operations to more quickly respond to insurers' and consumers' needs. The Division is in the process of reviewing and, where appropriate, proposing for adoption proposed legislation affecting, among other things, insurers' market conduct, uniform regulatory standards, licensing of insurers and producers, life insurance, commercial and personal property and casualty insurance, surplus lines insurance, reinsurance, insurance fraud, insurance receiverships, financial surveillance of insurers, state and national insurance partnerships, and creating competitive insurance markets.

4. Expenditures for FY08:

	FY 08 Apprn (Act 213/07)	Collective Bargaining	Transfers	Restrictions	Ceiling Increase	Estimated Total Expenditure
(Position Count)	(80.00)	-	-	-	-	(80.00)
Personal Services	5,994,859	189,937		-	-	6,184,796
Other Current	6,115,949	-	-	-	-	6,115,949
Equipment	34,900	-	-	-	-	34,900
Leases	-	-	-	-	-	-
Motor Vehicles	-	-	-	-	-	-
TOTAL	12,145,708	189,937	-	-	-	12,335,645
(Position Count)	-	-	-	-	-	-
General Funds	-	-		-	-	-
(Position Count)	(80.00)	-	-	-	-	(80.00)
Special Funds	11,945,708	189,937	-	-	-	12,135,645
(Position Count)	-	-	-	-	-	-
Trust Funds	200,000	-		-	-	200,000
(Position Count)	-	-	-	-	-	-
Other Funds	-	-	-	-	-	-

a. **Explain all transfers within the program I.D. and the impact on the program.**

None.

b. **Explain all transfers between program I.D.'s and the impact on the program.**

None.

c. **Explain all restrictions and the impact on the program.**

As applicable, provide a description of the impact of the transfers that have occurred within the program I.D. between the various cost elements, transfers occurring between different program I.D.'s, and restrictions imposed.

None.

5. **Supplemental Budget requests for FY09:**

Provide the total position counts and funds requested.

	MOF	FY09 Apprn (Act 213/07)	Supplemental Request	Total FY09 Exec Supp Budget
(Position Count)	B	(80.00)	(1.00)	(81.00)
				-
Personal Services	B	5,994,859	91,622	6,086,481
Other Current	B	5,917,949	1,470,000	7,387,949
Equipment	B	32,900	-	32,900
Leases	B	-	-	-
Motor Vehicles	B	-	-	-
TOTAL	B	11,945,708	1,561,622	13,507,330
(Position Count)	T	-	-	-
				-
Personal Services	T	-	-	-
Other Current	T	200,000	-	200,000
Equipment	T	-	-	-
Leases	T	-	-	-
Motor Vehicles	T	-	-	-
TOTAL	T	200,000	-	200,000

a. **Workload or program request:**

For each program package or item requested within the Program I.D., provide the following (if no request is being made, indicate "none"):

i. **A description of the request, the reasons for the request, and the desired outcomes or the objectives to be accomplished by the proposed program.**

1. MOF B. Increase the expenditure ceiling for Compliance Resolution Fund by $1,115,000 for personal services on fee basis:

   Examinations. The increase in examination contractual costs is due to higher than anticipated chargeable rates by contracted examiners for required statutory examinations of domestic insurers. As the demand for CPAs is high, their rates have been higher than originally anticipated. In addition, additional work needs to be performed since the last examinations due to the Sarbanes-Oxley Act of 2002 (Pub. L. No. 107-204, 116 Stat. 745), also known as the Public Company Accounting Reform and Investor Protection Act of 2002, and corporate governance requirements.

Health actuary. With the re-instatement of health insurance rate regulation via SB 12, SLH 2007 (Act 175), a contracted health actuary is required to assist with this rate regulation.

Computer consultant. Unforeseen need for computer consultant work on the interface with NAIC and enhancements to HIDS by restructuring producer licenses, ACH input, etc.

Computer program expert. Unforeseen need for a computer program expert for insurance fraud investigations. Critical evidence generated from various medical billing software programs is available only in electronic format. With the statute of limitations, expedient data recovery is crucial (e.g., enables timely interviews of witnesses). Rather than having the Insurance Fraud Investigation Branch (IFIB) purchase and expend time learning the various medical billing software, the contracted expert will extract and analyze the data from electronic files and, as needed, testify in court upon the request of the IFIB.

2. MOF B. Increase expenditure ceiling of the Captive Insurance Administrative Fund (CIAF) by $355,000 for personal services on a fee basis.

   Increasing the CIAF expenditure ceiling by $355,000 is necessary to fund an increase in professional services on fees that will be paid to outside (non-Insurance Division staff) examiners for the examination of 5 risk retention captive insurance company licensees in FY 08. Although these outside/contract exam costs are ultimately passed along to licensees and deposited into the CIAF, the exam costs must first come from the expenditures of the Insurance Division's program budget.

   The examinations of these 5 risk retention captives are part of the ongoing cycle of exams that the Insurance Commissioner is required to conduct pursuant to HRS 431:19-108, as well as to enable the Insurance Division to maintain its accreditation status with the NAIC. NAIC accreditation is important for Hawaii because it enables other states to rely upon Hawaii's regulatory environment to prudently regulate its captive licensees and Hawaii risk retention captives that insure risks located in other states.

   The CIAF has a dedicated source of funding to support the proposed budget for the upcoming biennium. The CIAF collected in excess of $2 million last year. Annual collections of captive taxes and fees will continue to be at least $2 million per year. Captive owners understand and expect the Captive Insurance Administration Branch (CIAB) to use the premium taxes and fees they are assessed to pay for providing /maintaining a strong, fair and reputable regulatory environment and services that will help them meet their current and future risk financing objectives.

3. MOF B. Authorize (1.0) permanent exempt Insurance Examiner II position and funds. Act 227, SLH 2007 (Act 227), directs the Insurance Division to develop a baseline understanding of the marketplace using market analysis. In addition, it creates a process for the Insurance Division's market conduct actions, as well as interstate collaboration regarding nationally significant market concerns. Without an insurance examiner position to conduct and coordinate the market conduct examinations, the Insurance Division will not have the resources to meet the directives of Act 227.

ii. **A listing/description of the positions requested, and funding requirements by cost category and source of funding.**

See Item 5.a.i. above.

iii. **For all lump sum requests, please provide a detailed breakout indicating specific purposes for all planned expenditures.**

None.

b. **For all position count reductions, please specify whether the positions were filled or vacant.**

None.

6. **Program restrictions:**
Identify restrictions carried over from FY08 as well as additional reductions due to the Department of Budget & Finance budget ceilings for FY09. If no reduction is being proposed, please indicate "none".

None.

7. **Capital Improvement Program (CIP) requests for FY 09:**
CIP data for all projects within the agency being heard shall be combined into a single appendix in the department's testimony (if no request is being made, please indicate "none").

None.

8. **Proposed lapses of CIP projects:**
Any CIP project identified for lapse shall include the following (if no lapses are being proposed, please indicate "none"):

None.