

# HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 7, 2008

The Honorable Robert N. Herkes, Chair  
The Honorable Tommy Waters, Chair

House Committees on Consumer Protection and Commerce and Judiciary

**Re: HB 3097 – Relating to Insurance**

Dear Chair Herkes, Chair Waters and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 3097 which would provide insurers with greater investment flexibility by updating the Insurance Code to reflect the investment strategies, such as stocks, bonds, and notes developed since the Code was last updated in 1987. HMSA supports the intent of this measure.

This bill would update a statute which has remained static for some years and governs how insurers, including health plans, in the state may manage their investments. We appreciate the intent of the Insurance Commissioner to bring in line some of Hawaii's outdated statutes to match language currently offered by the National Association of Insurance Commissioners (NAIC). The investment market has changed rapidly since this statute was put in place and does not cover the full gamut of options currently available.

That being said, we would like to request one small amendment to the measure itself and two other amendments to existing statute that are related. We believe these changes will further bring Hawaii's law up to date with current stock market investment options. On page 8, Line 5 we would like to add the phrase: Exchange traded funds. This would allow health plans to invest in exchange traded funds (ETFs) which are actually index funds traded like stocks.

We would also like to request amending the Foreign Securities Statute, HRS 431:6-313. Under current statute insurers in the state are not allowed to invest in foreign securities unless the entity conducts business in that foreign country. Investing in foreign markets will enable insurers to diversify risk by spreading it out over a larger market. To realize this change we would respectfully request the inclusion of language from the NAIC Investment of Insurers Model Act. This would be accomplished by adding an appropriately designated new section of the bill as follows:

LATE TESTIMONY

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Section : Section 431:6-313 Hawaii Revised Statutes is amended to read as follows:

**§431:6-313 Foreign securities.** [~~(a) An insurer authorized to transact insurance in a foreign country may invest any of its funds, in aggregate amount not exceeding its deposit and reserve obligations incurred in such country, in securities of or in such country possessing characteristics and of a quality similar to those required pursuant to this article for investments in the United States.~~

~~(b) An insurer may invest any of its funds, in an aggregate amount not exceeding fifteen per cent of its assets, in addition to any amount permitted pursuant to subsection (a), in obligations of the governments of the Dominion of Canada, or of Canadian provinces, or municipalities, and in obligations of Canadian corporations, which have not been in default during the five years next preceding date of acquisition, and which are otherwise of equal quality to like United States public or corporate securities as prescribed in this article.]~~

(a) An insurer may acquire foreign investments or engage in investment practices with persons of or in foreign jurisdictions, if the aggregate amount of foreign investments then held by the insurer under this subsection does not exceed twenty (20%) of its admitted assets; and

(b) The aggregate amount of foreign investments then held by the insurer under this subsection in a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or three percent (3%) of its admitted assets as to any other foreign jurisdiction.

Another small change to the existing statute would allow for insurers to invest in non-dividend paying common stocks. This change would enable HMSA to invest in companies such as *Google* which is a non-dividend paying stock. This change could be accomplished by adding an appropriately designated new section to the bill:

Section : Section 431:6-104 Hawaii Revised Statutes is amended by amending subsection (a) to read as follows:

**§431:6-104 General qualifications.** (a) Notwithstanding the provisions of section 431:6-321, no security or other investment shall be eligible for purchase or acquisition under this article unless it is interest bearing or interest accruing or ~~[dividend or]~~ income paying or, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit, the interest or income accruing thereon; except, that it may acquire real property and or non-dividend paying stocks as provided in this article.

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(b) No security shall be eligible for purchase at a price above its fair value.

(c) No provision of this article shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or if acquired pursuant to a lawful and bona fide agreement of bulk reinsurance, merger, or consolidation. Any investments so acquired which are not otherwise eligible under this article shall be disposed of pursuant to section 431:6-403 if personal property or securities, or pursuant to section 431:6-312 if real property.

Thank you for the opportunity to testify on HB 3097.

Sincerely,

Jennifer Diesman  
Director, Government Relations