LATE TESTIMONY

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TO THE HOUSE COMMITTEE ON
HUMAN SERVICES & HOUSING

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Thursday, February 14, 2008
9:25 a.m.

TESTIMONY ON HOUSE BILL NO. 3100 – RELATING TO ENHANCED PENALTIES FOR INSURANCE VIOLATIONS COMMITTED AGAINST ELDERS.

TO THE HONORABLE MAILE SHIMABUKURO, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). Thank you for hearing this bill. The Department strongly supports this Administration bill.

The purpose of this bill is to allow the Commissioner and the court to impose enhanced penalties for Insurance Code violations committed against seniors who are age 62 or older. Current penalties are not less than $100 nor more than $10,000 per violation. This bill would permit enhanced penalties of up to $50,000 for each violation. These enhanced penalties could be imposed in addition to the penalties available under existing law.

Unscrupulous and aggressive insurance producers frequently prey upon our senior citizens, targeting the life savings and assets of seniors for their own financial gain. These deceptive practices include churning their investments, making misrepresentations, omitting or failing to adequately disclose relevant facts or features of insurance products, and recommending inappropriate or unsuitable products.

For example, a dishonest insurance producer may tell seniors that they can earn a minimum guaranteed interest rate, greater than the return from a savings account. What they fail to disclose is that this "guaranteed interest rate" involves an annuity which has a high surrender value and a long surrender period of ten years. Often, annuities are sold to seniors who are in their 70s or 80s and who may need the money to pay unforeseen medical bills or an emergency. A ten-year surrender period means they would need to pay a surrender charge or penalty for withdrawing money from annuity or terminating it within the ten-year period.

Last session, the Legislature passed three new laws that focused on illegal actions committed by mortgage brokers and solicitors, securities dealers and broker-dealers, and financial institutions against seniors. This bill seeks to extend protection for seniors against illegal acts committed by insurance producers and insurers. It is imperative to protect our seniors by enhancing the penalties that may be imposed for these fraudulent and deceptive acts and practices.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.