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TO THE HOUSE COMMITTEES ON
CONSUMER PROTECTION & COMMERCE
AND JUDICIARY

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Thursday, February 7, 2008
2 p.m.

TESTIMONY ON HOUSE BILL NO. 3103 – RELATING TO INSURANCE.

TO THE HONORABLE ROBERT HERKES AND TOMMY WATERS, CHAIRS, AND MEMBERS OF THE COMMITTEES:

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

The purpose of this bill is to clarify: (1) licensing provisions in Hawaii Revised Statutes (“HRS”) chapter 431, Articles 9A and 9C, governing insurance producers and managing general agents (“MGA”), respectively; and (2) filing requirements in Article 20 governing title insurers.

An MGA is an agent of the insurer that manages all or part of the insurer’s business. Current law requires an applicant for an MGA license to furnish proof of a bond and an errors and omission policy in unlimited amounts as a condition of licensure in HRS § 431:9C-102. These amounts are unlimited, as they are based upon a percentage of gross direct written premium.

Since the insurer is ultimately responsible for an MGA’s acts, it is more appropriate to place these requirements with the insurer in HRS § 431:9C-103 (rather

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than as a condition of licensure) and to impose a \$0.5 million cap for the bond and to set a \$1 million minimum for the E&O policy. The Insurance Division has received reports of the difficulty and cost of getting bonds for large amounts. These revisions provide conformity with the current National Association of Insurance Commissioners ("NAIC") model law, promote uniformity among state insurance laws, provide administrative efficiency, and reduce the cost of compliance for MGAs.

Amending HRS § 431:9A-112 clarifies the Commissioner's authority to summarily suspend an insurance producer's license pending hearing, in conformity with HRS § 431:2-308. This amendment will promote consistency within the Insurance Code.

Currently, foreign and alien insurers that file annual and quarterly financial reports with the NAIC are not required to file hard copies of these reports with the Commissioner, pursuant to HRS §§ 431:3-301 and 431:3-302. Amending HRS § 431:20-122 clarifies that foreign and alien title insurers are not required to file a hard copy of their annual and quarterly financial reports with the Commissioner, in conformity with HRS §§ 431:3-301 and 431:3-302. This will promote administrative efficiency, provide consistency within the Insurance Code, and reduce the cost of compliance for foreign and alien title insurers.

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

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