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TO THE HOUSE COMMITTEE ON TRANSPORTATION

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Monday, March 24, 2008
10:00 a.m.

**TESTIMONY ON HOUSE CONCURRENT RESOLUTION NO. 171/HOUSE
RESOLUTION NO. 145 – REQUESTING THE INSURANCE COMMISSIONER TO
STUDY THE ADVANTAGES AND DISADVANTAGES OF ADOPTING THE ENGLISH
MARINE INSURANCE ACT, 1906.**

TO THE HONORABLE JOSEPH SOUKI, 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”). The Department opposes House Concurrent Resolution No. 171 and
House Resolution No. 145.

The Insurance Division historically has not received many complaints pertaining
to marine insurance. The complaint history shows 4 complaints for ocean/marine
insurance in the past 5 years (2002 to 2007), compared to a total of 3,367 insurance
complaints in the same 5-year period.

Therefore, the Department does not see the need to adopt or study the English
Marine Insurance Act.

We thank the Committee for this opportunity to testify and respectfully request
that these resolutions be held.

Testimony Presented to the
House Committee on Consumer Protection & Commerce and
House Committee on Transportation

March 24, 2008 at 10:00 a.m.

by
Howard G. McPherson, Esq.

WRITTEN TESTIMONY ONLY

RE: HC 171/HR 145, REQUESTING THE INSURANCE COMMISSIONER TO
STUDY THE ADVANTAGES AND DISADVANTAGES OF ADOPTING THE ENGLISH
MARINE INSURANCE ACT, 1906.

Dear Ladies and Gentlemen:

I am a Hawaii attorney with a practice emphasizing admiralty and maritime law. I support further study of a proposed Hawaii Marine Insurance Act, modeled on the British Marine Insurance Act of 1906 (British Act).

There is growing, irrefutable evidence that the 21st century shipping industry will be focused primarily on the involvement of Pacific Rim countries, and shipping trade in the Pacific Ocean generally. Particularly, the rise of China as an enormous importer and exporter of commodities has fueled this trend. The leading role many shipbuilders and ship repair companies in Japan and South Korea have recently assumed is further evidence.

Against this background, and given Hawaii's unique geographic and intercultural position in the Pacific, I respectfully submit it would be worthwhile to further explore the idea of a progressive and commercially attractive Hawaii Marine Insurance enactment, which if properly framed could complement and enhance, rather than conflict with the existing Hawaii Insurance Code.

I understand the Hawaii Insurance Commissioner is generally adverse to the enactment of a Hawaii statute based on the British Act, essentially for reasons of unfamiliarity and general resource constraints. These concerns are well-taken. However, I do not believe they should result in this idea being rejected out of hand.

Instead, given the overwhelming desire in all quarters of our community to further diversify Hawaii's economy with clean, environmentally friendly industry, such as a growth in underwriting, claims adjustment and insurance business generally would bring, it seems worthwhile to invest further time and effort to study this possibility.

To that end, I respectfully suggest the Commissioner's own further study, as requested in the subject Resolutions, could be augmented with concurrent study by the Legislative Research Bureau and/or the University of Hawaii Law School, particularly by those faculty and research assistants who are specially interested in international law and business. At a minimum, it seems there would be no harm in asking for their help.

Thank you for the opportunity to comment on HCR 171/HR 145.