



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

TO THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND
AFFORDABLE HOUSING

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Thursday, February 7, 2008
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 2313 – RELATING TO INSURANCE

TO THE HONORABLE RUSSELL S. KOKUBUN, 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 strongly supports this bill.

This bill is similar to a consensus bill developed in meetings with insurance
agents’ associations, health insurers, property and casualty insurers and life insurers in
2004. The purpose of this bill is to expand the authority of the Insurance Division’s
insurance fraud investigations branch (“IFIB”) to investigate and prosecute insurance
fraud in all lines of insurance, except workers’ compensation insurance, within the State
of Hawaii.

Specifically, this bill:

- (1) Expands the definition of insurance fraud to include the filing of false
insurance applications and fraudulent sales of insurance, whereas the
current definition applies only to the filing of claims;
- (2) Establishes the offense of insurance fraud and criminal and civil penalty
provisions in the Insurance Code, Hawaii Revised Statutes (“HRS”)
chapter 431 (“Insurance Code”);

- (3) Allows the filing of administrative and civil insurance fraud actions, whereas current law authorizes criminal prosecution only; and
- (4) Establishes the IFIB in Article 2 of the Insurance Code governing the administration of insurance laws, rather than in Article 10C governing motor vehicle insurance.

Currently, the jurisdiction of the insurance fraud investigations branch is governed by HRS § 431:10C-307.8. According to the Attorney General's Office, the current placement of the IFIB in Article 10C, rather than in Article 2, restricts the IFIB's jurisdiction to motor vehicle insurance fraud. This placement causes confusion and may prompt arguments by defense counsel that the IFIB lacks authority to prosecute insurance fraud in other insurance lines. The original intent of the Fraud Branch was to cover all lines of insurance.

This bill will correct this problem and allow the Insurance Division to pursue fraud in any line of insurance (except workers compensation insurance). Whenever any state has focused on pursuing and prosecuting insurance fraud, there has been a reduction in premiums for that state's citizens. The Coalition Against Insurance Fraud recently published its Hall of Shame, the worst cases of fraud across the nation. Included were several cases of health insurance fraud, homeowner's insurance fraud, life insurance fraud, business liability fraud as well as auto insurance fraud. We know fraud occurs in every line of insurance. It is a significant cost that, if reduced, will reduce premiums for our citizens.

The IFIB has done an extraordinary job prosecuting auto fraud cases. Because of our limited resources, they have carefully chosen and developed the cases that resulted in indictments. As a result, the IFIB has an almost 100% success rate in convictions. In fact almost all defendants, when they saw the evidence arrayed against them, pled guilty or no contest.

Insurance fraud continues to affect every household in Hawaii and every employer through increased premiums. This bill will improve the Department's ability to deter insurance fraud and thereby can be expected to save Hawaii's consumers and employers money.

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



**ASSOCIATION OF INSURANCE
AND FINANCIAL ADVISORSSM**

516 Kawaihae St., #E • Honolulu, Hawaii 96825
Ph.: (808) 394-3451 • Fax: (808) 395-4417
email: NAIFA-Hawaii@hawaii.rr.com

Senate Committee on Consumer Protection and Affordable Housing
Senator Russell Kokubun, Chair
Senator David Ige, Vice Chair

Senate Bill 2313: Relating to Insurance

Hearing Date: February 7, 2008 9:00 am

Mr. Chairman and members of the Committee, my name is Cynthia Hayakawa, Executive Director of the National Association of Insurance and Financial Advisors (NAIFA) Hawaii, an organization made up of life insurance agents and financial advisors across Hawaii.

We support SB 2313. This measure will establish a new part in Chapter 431, HRS, under "Insurance Fraud". A new "insurance fraud investigations branch" will also be established to regulate insurance fraud.

This measure on insurance fraud has been worked on from 2004 in cooperation with Insurance Division. In the 2005, 2006, and 2007 legislative sessions, this consensus draft was introduced which represented the stakeholders – State Farm, HMSA, ILWU, HIIAA ("Hawaii Independent Insurance Agents Association"), HIC ("Hawaii Insurers Council"), ACLI ("American Council of Life Insurers") and NAIFA Hawaii, as well as the Insurance Division.

Thank you for the opportunity to express our support and we ask for your favorable consideration.

AMERICAN COUNCIL OF LIFE INSURANCE
TESTIMONY IN SUPPORT OF SB 2313,
RELATING TO INSURANCE

February 7, 2008

Via E Mail: testimony@capitol.hawaii.gov
Senator Russell S. Kokubun, Chair
Committee on Commerce, Consumer Protection and Affordable Housing
State Senate
Hawaii State Capital, Conference Room 229
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Kokubun and Committee Members:

Thank you for the opportunity to testify in support of SB 2313, relating to Insurance.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred fifty-three (353) member company's account for 93% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred sixty-one (261) ACLI member companies currently do business in the State of Hawaii.

Insurance fraud is costly to both the insurance industry and consumers alike.

Accordingly, ACLI is in support of SB 2313, which expands the authority of the Insurance Division's insurance fraud investigations unit under the Department of Commerce and Consumer Affairs to prevent, investigate, and prosecute insurance fraud beyond motor vehicle insurance case to all lines of insurance except worker's compensation.

Again, thank you for the opportunity to testify in support of SB 2313.

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, A Law Corporation



Oren T. Chikamoto
737 Bishop Street, Suite 2100
Honolulu, Hawaii 96813
Telephone: (808) 524-3800
Facsimile: (808) 523-1714
E mail: ochikamoto@chctlaw.com

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 7, 2008

The Honorable Russell Kokubun, Chair
The Honorable David Ige, Vice Chair

Senate Committee on Commerce, Consumer Protection and Affordable Housing

Re: SB 2313 – Relating to Insurance

Dear Chair Kokubun, Vice Chair Ige and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2313 which would expand the authority of the insurance division's insurance fraud investigations unit to prevent, investigate, and prosecute both civilly and criminally insurance fraud relating to all lines of insurance, excluding worker's compensation insurance. HMSA supports this measure.

Nationally, fraudulent or abusive claims translate to between \$36 and \$144 billion in losses to the health care industry each year. Although fraud and abuse is probably on the lower end of the spectrum locally, if only three percent of claims paid in Hawaii are fraudulent, this would amount to \$60 million dollars in losses annually. HMSA has been a proponent of legislation designed to strengthen a health plan's ability to combat fraud.

Since the 2004 legislative session, HMSA, along with many other stakeholders have been working on finding consensus language pertaining to fraud and abuse. Since then numerous parties have worked in concert to produce mutually agreeable language. HMSA supports SB 2313 as a means to both give the insurance division greater enforcement authority in this area and also for the insurance industry to protect itself from the potential costs associated with such abuses.

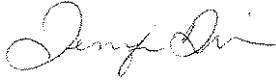
That being said we would like to request one small amendment to clarify the sharing of information between health plans and the Insurance Division. We believe that the current language of the measure may lead to duplicative or unnecessary efforts when reporting fraud information to the Division. This could be clarified by adding a sentence to page 14, line 10:

The insurance fraud investigations branch will work with the insurer or licensee to determine what information shall be provided.

We believe that this will give both the health plans and the Division the flexibility to determine what information should be provided to the newly created Branch to ensure it can effectively perform its fraud investigations.

Thank you for the opportunity to provide testimony in support of SB 2313.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer Diesman".

Jennifer Diesman
Director
Government Relations



Hawaii Association of Health Plans

February 7, 2008

The Honorable Russell Kokubun, Chair
The Honorable David Ige, Vice Chair

Senate Committee on Commerce, Consumer Protection and Affordable Housing

Re: SB 2313 – Relating to Insurance

Dear Chair Kokubun, Vice Chair Ige and Members of the Committee:

My name is Rick Jackson and I am currently President of the Hawaii Association of Health Plans (“HAHP”). HAHP is a non-profit organization consisting of six (6) member organizations:

AlohaCare
Hawaii Medical Assurance Association
HMSA
Hawaii-Western Management Group, Inc.

MDX Hawai‘i
University Health Alliance
UnitedHealthcare

Our mission is to promote initiatives aimed at improving the overall health of Hawaii. We are also active participants in the legislative process. Before providing any testimony at a Legislative hearing, all HAHP member organizations must be in unanimous agreement of the statement or position.

HAHP appreciates the opportunity to testify on SB 2313 which would give the Insurance Commissioner the necessary authority and staffing to investigate, identify and prosecute instances of fraud.

Health care fraud is a drain on the system financially and can jeopardize the security and health care of consumers – both directly and indirectly. The cost of fraud is estimated to be from 3 percent to 5 percent of our nation’s health care expenditures. It is true that everyone pays for fraud through higher health care costs. HAHP supports efforts that strengthen the Insurance Commissioner’s ability to perform in this area.

The measure before the committee today is the latest version of insurance fraud legislation introduced by the insurance division since 2004. During the 2005 legislative session, HAHP reached consensus, along with many other insurers, on an insurance fraud bill. All insurers covered by this proposal met and reached agreement on the content of the measure. Unfortunately, it failed to meet legislative deadlines and did not pass.

The measure before you today reflects this consensus language. We would respectfully urge the committee to support SB 2313.

Thank you for the opportunity to offer comments today.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Jackson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rick Jackson
President

**SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION AND AFFORDABLE HOUSING**

February 7, 2008

Senate Bill 2313 Relating to Insurance

Chair Kokubun and members of the Senate Committee on Commerce, Consumer Protection and Affordable Housing, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders. State Farm supports Senate Bill 2313 Relating to Insurance.

State Farm supports this bill as written. Senate Bill 2313 proposes to expand the insurance fraud investigations branch to cover other lines of insurance. This measure represents a compromise reached with the industry and the Department of Commerce and Consumer Affairs on the terms of the expansion.

Thank you for the opportunity to present this testimony.