



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON HEALTH
TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Wednesday, March 12, 2008
8:00 a.m.

TESTIMONY ON SENATE BILL NO. 3017, S.D. 1 – RELATING TO INSURANCE.

TO THE HONORABLE JOSH GREEN, M.D., 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 scheduling a hearing on this bill. The Department strongly supports this Administration bill, with a suggested amendment.

The purpose of this bill is to make Article 11 of the Insurance Code, Hawaii Revised Statutes (“HRS”) chapter 431, expressly applicable to mutual benefit societies and allow the Commissioner to monitor the relationship and transactions between mutual benefit societies and their affiliates and among the affiliates of mutual benefit societies, in the same manner as presently authorized for other insurers. This version of the bill has a defective effective date of July 1, 2050.

Specifically, this bill will bring controlled affiliate transactions up to the standards set forth in HRS § 431:11-106 and allow the review of affiliated transactions. Mutual benefit societies will be required to file registration statements describing their affiliate network.

Currently, certain mutual benefit societies conduct the business of insurance through the extensive use of affiliates. Regulatory oversight of affiliate transactions is

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required, because they are not always independent or “arm’s length” transactions. Current law is unclear as to whether the Commissioner is authorized to take enforcement action regarding affiliated transactions conducted by mutual benefit societies.

Mutual benefit societies are no longer simple membership organizations owned and maintained for the benefit of their members. Some mutual benefit societies have become largely dormant, offering few benefits to few members, but holding substantial amounts of cash. Other mutual benefit societies are used as shell companies to divert profits to affiliates privately owned and controlled by management, and not operated for the benefit of members. Other mutual benefit societies have become investment vehicles for investors to hold investments and subsidiaries that have business dealings with affiliates.

The intent of this measure is to protect mutual benefit society members by providing oversight of these types of complex corporate and financial arrangements.

The Department respectfully requests amending the effective date on page 3, line 9, in section 5 of the bill to “July 1, 2008”.

We thank this Committee for the opportunity to present testimony on this matter and ask that the Committee pass an H.D. 1 with July 1, 2008 as the effective date.