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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Wednesday, March 26, 2008
11:00 a.m.

**TESTIMONY ON SENATE BILL NO. 3019, S.D. 1, H.D. 1 – RELATING TO
INSURANCE.**

TO THE HONORABLE MARCUS OSHIRO, 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 one requested
amendment.

The purpose of this bill is to allow insurers greater flexibility with their investment
decisions without a reduction in protection of their policyholders. The bill achieves this
by proposing to replace existing law with more current regulatory standards.

This version of the bill incorporates amendments suggested by various
stakeholders, including one affecting Hawaii Revised Statutes (“HRS”) § 431:6-201(b) in
section 4.

The current insurer investment provisions have remained relatively unchanged
since they were established during the re-codification of insurance laws in 1987. Since
then, the National Association of Insurance Commissioners (“NAIC”) has continuously
modernized the criteria and limits for allowable investments. The NAIC’s guidance and

authoritative standards now provide for greater flexibility and diversification of insurers' investment portfolios.

We know that these types of changes cannot occur overnight. Therefore, this bill has a delayed effective date that would allow insurers the opportunity to adjust their investments and investment strategies to comply with the revised provisions.

It is important to recognize that the purpose and intent of this bill is not only to allow insurers greater investment flexibility, but also to protect insurance policyholders.

Section 4 of the current version of this bill amending HRS § 431:6-201(b) deleted the phrase "and one hundred per cent of its ceded reinsurance premium payable", while retaining the phrase "reinsurance recoverable on paid losses".

HRS § 431:6-201(b) is used to determine the ability of a domestic insurer to pay its liabilities as liabilities become due.

Reinstating the phrase "and one hundred per cent of its ceded reinsurance premium payable" is necessary for the protection of policyholders for three major reasons.

First, many of Hawaii's domestic insurers are simply not large enough to fully fund losses from a major catastrophe such as a hurricane. To remedy this, insurers transfer (or "cede") a majority of their risk by buying reinsurance from several large reinsurers. Simply stated, reinsurance is insurance for the insurer. Therefore, an insurer records premiums owed to a reinsurance company (or "ceded reinsurance premium payable") as a liability.

Second, an insurer may be unable to timely pay its ceded reinsurance premiums. In this situation, reinsurers may: (1) not be contractually obligated to honor the reinsurance agreement when a catastrophe hits; or (2) offset the ceded reinsurance premiums balances payable with the reinsurance recoverable that would have been used to reimburse the insurer for paid loss claims. In either case, it is the policyholders who will lose, because the insurer will lack funds to pay policyholders' claims in a timely manner, if at all.

Third, this version of the bill as currently drafted allows "reinsurance recoverable on paid losses" as an asset in determining the insurer's ability to pay its liabilities.

"Reinsurance recoverable on paid losses" is an asset of an insurer where an insurer has paid for losses which are reimbursable from a reinsurer, pursuant to the reinsurance agreement.

As explained above, ceded reinsurance premium payable is a liability which would be offset by "reinsurance recoverable on paid losses". Allowing "reinsurance recoverable on paid losses" to count as an asset while not recognizing "ceded reinsurance premium payable" as a liability distorts the insurer's financial condition.

From a regulator's perspective, keeping the phrase "and one hundred per cent of its ceded reinsurance premium payable" is necessary for the protection of policyholders. The Department is continuing and willing to work with the various stakeholders on agreeable language.

The Department respectfully requests reinstating the phrase "and one hundred per cent of its reinsurance premium payable" after "reserves" on page 4, line 8 in section 4 of the bill such that HRS § 431:6-201(b) reads:

"(b) In addition to the investments required by subsection (a), an insurer shall ~~[invest and keep invested its funds]~~ maintain an amount aggregating not less than one hundred per cent of its reserves and one hundred per cent of its ceded reinsurance premium payable required by this code, in the following assets: cash ~~[or]~~, premiums in course of collection, reinsurance recoverable on paid losses, or ~~[in]~~ investments eligible in accordance with this article~~[-]~~, including interest and dividends receivable on the investments."

We thank this Committee for the opportunity to present testimony on this matter and respectfully request that the Committee pass an H.D. 2 with the above amendment.



P.O. Box 2815
Honolulu, Hawaii 96803

TESTIMONY IN SUPPORT OF
S.B. NO. 3019 S.D. 1, H.D. 1

HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCE
Representative Marcus Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

Wednesday, March 26, 2008, 11:00 A.M.
State Capitol, Conference Room 308

My name is Denys Kazama, Chair of the Legislative Committee of the Hawaii Captive Insurance Council. As a member of the Hawaii Captive Insurance Council ("HCIC") and Office Head of Marsh Management Services Inc., we thank you for the opportunity to provide this written testimony. HCIC's members represent 164 active captive insurance companies domiciled in the State of Hawaii, and many of the financial institutions, captive insurance managers, accountants, and other professionals and entities that service these Hawaii-domiciled captive insurance companies.

We support S.B. No. 3019 S.D. 1, H.D. 1. The purpose fo the bill is to update the investment requirements in the Hawaii Insurance Code (Article 6 or Chapter 431). We believe this will give insurance companies, including some of the Hawaii-domiciled captive insurance companies, greater flexibility, while still protecting the interests of the policyholders.

We are in support of this bill and urge the Committee to pass S.B. No. 3019. S.D. 1, H.D. 1. Thank you for this opportunity to testify.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Denys Kazama". The signature is stylized and cursive.

Denys Kazama
Chair, Legislative Committee, Hawaii Captive Insurance Council
Office Head, Marsh Management Services Inc.

HMSA



HMSA
Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

March 26, 2008

The Honorable Marcus Oshiro, Chair
The Honorable Marilyn Lee, Vice Chair

House Committee on Finance

Re: SB 3019 SD1 HD1 – Relating to Insurance

Dear Chair Oshiro, Vice Chair Lee and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB 3019 SD1 HD1 which would provide insurers with greater investment flexibility by updating the Insurance Code to reflect the investment strategies, such as stocks, bonds, and notes developed since the Code was last updated in 1987.

This bill would update a statute which has remained static for some years and governs how insurers, including health plans, in the state may manage their investments. We appreciate the intent of the Insurance Commissioner to bring in line some of Hawaii's outdated statutes to match language currently offered by the National Association of Insurance Commissioners (NAIC). The investment market has changed rapidly since this statute was put in place and does not cover the full gamut of options currently available.

Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD'.

Jennifer Diesman
Assistant Vice President
Government Relations

TESTIMONY OF JASON L. PALMER, CPA

TESTIMONY ON S.B. NO. 3019, S.D. 1, H.D. 1
RELATING TO INSURANCE

HOUSE COMMITTEE ON JUDICIARY
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B Lee, Vice Chair

Wednesday, March 26, 2008, 11:00 a.m.
State Capitol, Conference Room 308

My name is Jason L. Palmer, CPA, Managing Director of Willis Management (Hawaii), a division of Willis, the third largest global insurance broker in the world. Willis Management (Hawaii) serves as a consultant and captive manager to several captive insurance companies domiciled in Hawaii and in other US jurisdictions. In addition, I am a Director and Officer of the Hawaii Captive Insurance Council ("HCIC") and a Director of several captive insurance companies licensed in Hawaii.

We strongly support S.B. No. 3019 S.D. 1, H.D. 1, which would help Hawaii in continuing to be a leading captive insurance domicile worldwide and also ensure that Hawaii remains a competitive captive domicile in maintaining captive insurance companies already domiciled in Hawaii, and attracting new captive formations in the future.

The purpose of this bill is to update investment requirements in the Hawaii Insurance Code, as found in Article 6 of Chapter 431, Hawaii Revised Statutes ("HRS"), to give insurance companies greater investment flexibility, while protecting the interests of policyholders.

This is a critical time for Hawaii's captive insurance industry. By passing this bill you will ensure that Hawaii's captive industry will continue to thrive and develop in an increasingly competitive marketplace. We are in strong support of this bill and urge the Committee to pass S.B. No. 3019 S.D. 1, H.D. 1. Thank you for this opportunity to testify in support of S.B. No. 3019 S.D. 1, H.D. 1.

Respectfully submitted:



Jason L. Palmer, CPA
Managing Director
Willis Management (Hawaii)
American Savings Bank Tower
1001 Bishop Street
Honolulu, HI 96813
Phone 521-0730

Willis



PACIFIC GUARDIAN LIFE

March 25, 2008

To: THE HONORABLE MARCUS OSHIRO, CHAIR, THE HONORABLE MARILYN LEE,
VICE CHAIR, AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

Subject: Testimony regarding SB No. 3019, S.D.1 - Relating to Insurance

Dear Chair Oshiro, Vice Chair Lee, and Members of the Committee:

Pacific Guardian Life Insurance Company, Ltd. supports SB No. 3019, S.D.1 – Relating to Insurance.

Pacific Guardian Life Insurance Company, Ltd. supports SB No. 3019, S.D.1 (“Bill”) because it will allow Hawaii domestic insurers to invest in a manner similar to their peers in the U.S. insurance industry while still providing significant protections to policyholders. By clarifying and modernizing some areas of permitted investments, the investment limitations in the Bill remain identical to or within those promulgated by the National Association of Insurance Commissioners (“NAIC”) Model Investment Law. In addition, by moving toward uniformity with NAIC Model Investment Law, this Bill will allow Hawaii insurers to compete on a more level playing field with non-Hawaii based insurers. Specifically, the Bill makes three changes that bring it closer to the NAIC Model Investment Law:

- (1) The Bill allows investment in non-dividend and dividend paying US equities within certain limits of admitted assets or surplus. Unlike existing Hawaii law and similar to this Bill, the Model Investment Law does not discriminate between non-dividend and dividend paying equities. The Model Investment Law has similar limits to those noted in this Bill.
- (2) The Bill generally replaces fixed charge requirements for issuers of corporate bonds and preferred stocks owned by insurers with a Securities Valuation Office (“SVO”) rating or ‘exempt’ requirement. The Model Investment Law does not speak to fixed charges, but instead focuses on the overall credit worthiness of the investment through the SVO rating designation. The Model Law’s approach appears more logical, as it is the SVO of the NAIC that is ultimately charged with providing credit ratings for securities held by insurers. And the assessment of credit ratings by the SVO should include consideration of issues well beyond fixed charge ratios of issuers.
- (3) The Bill clarifies limitations on investment in foreign securities with limitations that are identical to the NAIC Model Investment Law.

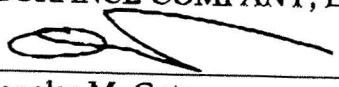
These three changes do bring Hawaii law closer to the NAIC Model Law and provides for a clearer, more consistent approach to the investments of insurers within the framework of protecting policyholder interests that is the bellwether of all NAIC model laws. Pacific Guardian Life Insurance Company, Ltd. supports SB No. 3019, S.D.1.

Thank you for the opportunity to testify on SB No. 3019, S.D.1.

Respectfully submitted,

PACIFIC GUARDIAN LIFE
INSURANCE COMPANY, LTD.

By:



Douglas M. Goto

Its: Executive Vice President