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TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION
& COMMERCE AND JUDICIARY

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Monday, February 9, 2009
2:00 p.m.

TESTIMONY ON HOUSE BILL NO. 1072 – RELATING TO INSURANCE.

TO THE HONORABLE ROBERT HERKES AND JON RIKI KARAMATSU, 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”). Thank you for hearing this bill. The Department strongly supports this
Administration bill.

The purpose of this bill is to clarify the Commissioner's authority to conduct
criminal background checks and to collect fingerprints of applicants for insurance
licensure. It is essential to have this statutory authority to prevent producers with
criminal records from doing business in Hawaii.

Under the Insurance Code, anyone who has been convicted of a felony is
prohibited from engaging in the business of insurance, unless an application for a
waiver is requested by the applicant or licensee and granted by the Commissioner,
pursuant to Hawaii Revised Statutes §§ 431:2-201.3 and 431:9A-112(a).

Federal law also prohibits those who have been convicted of crimes involving
dishonesty or breach of trust from engaging in the business of insurance, pursuant to 18
U.S.C. §§ 1033, 1034.

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Although the licensing application requires applicants to disclose their criminal history, applicants may either misunderstand or respond untruthfully to the questions in the application.

Access to federal and state criminal databases is crucial for the Insurance Division to meet its statutory duty in identifying applicants who may not disclose their criminal background and in protecting the public from those who may engage in unscrupulous insurance practices.

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

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON H.B. 1072, RELATING TO INSURANCE

February 9, 2009

Via E Mail: cpctestimony@capitol.hawaii.gov
Representative Robert N. Herkes, Chair
Committee on Consumer Protection and Commerce
Representative Jon Riki Karamatsu, Chair
Committee on Judiciary
State House of Representatives
Hawaii State Capital, Conference Room 325
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Herkes, Chair Karamatsu and Committee Members:

Thank you for the opportunity to comment on House Bill 1072, relating to Insurance.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred forty (340) member company's account for 94% 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 fifty-three (253) ACLI member companies currently do business in the State of Hawaii.

The short description of HB 1072 states that it adopts the National Association of Insurance Commissioners' Authorization for Criminal History Record Check Model Act.

In truth and in fact the Bill adopts only a portion of the Model Act requiring fingerprinting as part of an insurance applicant's criminal history record check and establishing a fee from the applicant to defray the cost of securing this information from federal and state databases.

ACLI is in the process of reviewing House Bill 1072 with its member companies and may submit additional testimony on this bill in the future.

Again, thank you for the opportunity to comment on House Bill 1072.

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House Committee on Consumer Protection and Commerce
 Representative Robert Herkes, Chair

House Committee on Judiciary
 Representative Jon Riki Karamatsu, Chair

House Bill 1072 – Relating to Insurance

Hearing Date: Monday -- February 9, 2009

Time: 2:00 pm

Chair Herkes and Chair Karamatsu and members of the Committees, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is an organization made up of life insurance agents and financial advisors across Hawaii.

We support the intent of this measure but are concerned with the thousands of fingerprints that will need to be processed. We also would like to know the amount of the fee as the bill will allow the Insurance Commissioner to establish the fee for the criminal history check. Also, of concern is the cost with the electronic storage of thousands of fingerprints and criminal history checks.

This measure is another uniformity standard adopted by the National Association of Insurance Commissioners' ("NAIC") Producer Licensing Working Group and is a component of the reciprocity requirements for producer licensing mandated by the federal Gramm-Leach-Bliley Act.

Mahalo for allowing us to share our views.

Cynthia Hayakawa
 Executive Director