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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Monday, March 2, 2009  
12:30 p.m.  
Agenda #4

**TESTIMONY ON HOUSE BILL NO. 1074, 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 hearing this bill. The Department strongly supports this  
Administration bill and requests one additional amendment.

The purpose of this bill is to update the Insurance Code, Hawaii Revised Statutes  
 (“HRS”) chapter 431, by:

- (1) Including in HRS §§ 26-9(o) and 431:2-215(a) an express reference to the  
drivers education fund underwriters fee in HRS § 431:10G-107;
- (2) Adding in HRS § 431:3-302.5(c) the reference to rules governing audited  
financial statements;
- (3) Amending HRS §§ 431:6-317 and 431:6-322 to clarify the allowable  
investments in common stocks, common trust funds, mutual funds, and  
exchange traded funds;
- (4) Including in HRS § 431:7-206 a time limit for claiming the retaliatory tax  
credit;

- (5) Clarifying in HRS § 431:8-310(b) that surplus lines brokers licenses are issued to licensed producers with property or casualty lines of authority or to property and casualty coverages sold for personal use;
- (6) Allowing under HRS § 431:9A-222.5 a limited adjuster license for crop insurance claims;
- (7) Amending HRS § 431:9A-124(b) regarding the number of continuing education credit hours required for insurance producer license renewal; and
- (8) Allowing under HRS §§ 431:14-104 and 431:14-105 the acceptance of electronic rate filings and payments for all property and casualty insurance filings.

The clean-up of these provisions is necessary so that Hawaii is uniform with the best practices in insurance regulation.

HRS §§ 26-9(o) and 431:2-215(a) currently refer to the drivers education fund underwriters fee in HRS § 431:10C-115 for motor vehicle insurance policies, but do not refer to the drivers education fund underwriters fee in HRS § 431:10G-107 for motorcycle and motor scooter insurance policies. Both fees should be referenced in these sections.

HRS § 431:3-302.5(c) currently requires insurers to prepare annual audited financial statements according to annual statement instructions and accounting practices and procedures manuals of the National Association of Insurance Commissioners ("NAIC"). The NAIC will be removing these provisions from the annual statement instructions and require state insurance regulators to expressly adopt these provisions by January 1, 2010, either by statute or rule, as a condition for NAIC accreditation. The Commissioner is currently proceeding to adopt these provisions in the administrative rules. Thus, the statutory reference to NAIC annual statement instructions will be outdated upon adoption of the rules.

HRS §§ 431:6-317 and 431:6-322 allow insurers to meet their capital and reserve requirements in HRS § 431:6-201 with investments in common stocks, common trust funds, mutual funds, and exchange traded funds, subject to certain limitations. After

meeting the requirements in HRS § 431:6-201, insurers may invest any of their funds in these securities. The investment statutes in Article 6 were amended last session to provide greater flexibility to insurers. These amendments are made for clarification purposes.

HRS § 431:7-206 allows a domestic insurer to claim credit for retaliatory taxes against the premium tax. This amendment provides a deadline for claiming the credit similar to that imposed for the regulatory oversight tax credit in HRS § 431:7-207(d).

HRS § 431:8-310(b) provides for the issuance of a surplus lines broker license to anyone with an insurance producer license and HRS § 431:9A-124(b) addresses the number of credit hours required for insurance producer license renewal. These provisions of the bill adopt the recommendations of the Uniformity Subgroup of the NAIC Producer Licensing Working Group to attain uniformity and reciprocity with other states to:

- (1) Expressly limit the issuance of the surplus lines broker license to property and casualty insurance producers;
- (2) Revise the number of continuing education credit hours required as a prerequisite for license renewal for insurance producers; and
- (3) Include ethics training in the continuing education requirement.

All states have agreed to reciprocity in insurance producer licensing.

Accordingly, many states already have adopted the NAIC's recommendations. Achieving nationwide uniformity in insurance licensing will make insurance regulation less burdensome and complicated for insurers, producers, and regulators, and this in turn will benefit the public. This proposal is an important step in achieving that goal.

All resident insurance producers will be required to earn 24 credit hours of continuing education, including three credit hours of ethics training or insurance laws and rules.

HRS § 431:9-222.5 currently provides for the issuance of a workers' compensation limited lines adjuster's license, but does not provide for other types of limited licenses. There is a certain need for adjusters to assess crop insurance losses. This section expands limited lines adjuster's licenses to include crop adjusters.

Amendments to HRS §§ 431:14-104 and 431:14-105 will allow insurers to submit all property and casualty insurance rate filings electronically.

Hawaii is participating in the NAIC's System for Electronic Rate and Form Filing ("SERFF"). SERFF enables companies to send and states to receive, comment on, and approve or reject insurance industry rate and form filings, and payments. It offers a technological solution to address the rate and form filing and approval process and offers a decentralized point-to-point, web-based electronic filing system. SERFF facilitates communication, management, analysis, and electronic storage of documents and supporting information, as well as providing up-to-date filing requirements when they are needed. It is designed to improve the efficiency of the rate and form filing and approval process and to reduce the time and cost involved in making regulatory filings.

In the H.D. 1, the provision in HRS § 431:10C-408(a) amending eligibility for the assigned claims program was deleted, since it was being considered in another measure, House Bill No. 264. As of this date, House Bill No. 264 has not yet been scheduled for hearing by the next committee.

This amendment is needed to clarify the original intent of the assigned claims program, which is to cover claims where no other applicable motor vehicle insurance coverage applies. Therefore, the Department respectfully requests the addition of an amendment to HRS § 431:10C-408(a), such that page 14, line 6 of the bill reads:

SECTION 10. Section 431:10C-408, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each person sustaining accidental harm, or such person's legal representative, may, except as provided in subsection (b), obtain the motor vehicle insurance benefits through the plan whenever:

- (1) No [~~liability or uninsured motorist~~] insurance benefits under motor vehicle insurance policies are applicable to the accidental harm;
- (2) No such insurance benefits applicable to the accidental harm can be identified; or
- (3) The only identifiable insurance benefits under motor vehicle insurance policies applicable to the accidental harm will not be paid in full because of

financial inability of one or more self-insurers or insurers to fulfill their obligations. "

We thank the Committee for the opportunity to present testimony on this measure and respectfully request that an H.D. 2 be issued with the requested amendment.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
COMMENTING ON H.B. 1074, HD 1, RELATING TO INSURANCE

March 2, 2009

Via E Mail: [fintestimony@capitol.hawaii.gov](mailto:fintestimony@capitol.hawaii.gov)  
Hon. Representative Marcus R. Oshiro, Chair  
Committee on Finance  
State House of Representatives  
Hawaii State Capital, Conference Room 398  
415 S. Beretania Street  
Honolulu, HI 96813

Dear Chair Oshiro and Committee Members:

Thank you for the opportunity to comment on House Bill 1074, HD 1, 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.

ACLI supports the intent and purposes of HB 1074, HD 1, which updates Hawaii's Insurance Code.

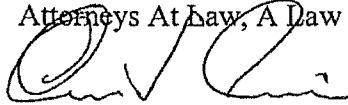
ACLI generally supports legislation which modernizes a State's insurance laws to conform to uniform national standards.

Section 9 of the Bill, as amended, establishes new continuing education requirements for an insurance producer to satisfy in order to maintain his or her license. These new requirements do not conform to the NAIC Producers Model Regulation.

ACLI is in the process of reviewing the changes made in Section 9 of the Bill 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 1074, HD 1.

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HAWAII

516 Kawaihae Street Suite E Honolulu, HI 96825

House Committee on Finance  
Representative Marcus Oshiro, Chair

**House Bill 1074, HD 1 – Relating to Insurance**

**Hearing Date: Monday – March 2, 2009**  
**Agenda # 4**

**Time: 12:30 pm**

Chair Oshiro and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is an organization made up of life insurance agents and financial advisors across Hawaii, who primarily sell life insurance, long term care, disability income insurance and provide financial advice.

**We support HB 1074, HD 1.** We are limiting our comments to the continuing education credit hours in Section 9 of the measure that will amend the number of continuing education credit hours required to maintain producer licenses. 24 credit hours over a 2 year period is now the uniform NAIC requirement.

This measure will increase the number of continuing education credit hours from 20 to 24 hours for those with only one line of authority – 21 hours relating to the line of authority for that license (i.e., life insurance) and 3 hours relating to ethics training or insurance law/rules.

For those with licenses in both life/accident/health **and** property casualty, the required credit hours will **decrease** from 30 to 24, whereby 10 hours will relate to life/accident/health; 11 hours will relate to property casualty; and 3 hours relating to ethics training or to insurance laws/rules.

Since the start of Hawaii's continuing education requirements in Hawaii, producers have been subject to Hawaii insurance laws and rules rather than ethics. Currently the CE ethics programs are categorized under the insurance laws and rules.

Many CE providers have adjusted their programs to accommodate our insurance laws and rules requirements. Having the Hawaii producers be required to have 3 hours of Hawaii insurance laws/rules **and** ethics training may be unique to Hawaii but both these areas are important components to the competency of insurance producers.

Mahalo for allowing us to share our views and we ask for your favorable consideration.

Cynthia Hayakawa, Executive Director



TESTIMONY ON H.B. NO. 1074, H.D. 1  
RELATING TO INSURANCE

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

Monday, March 2, 2009, 12:30 a.m.  
State Capitol, Conference Room 308

WRITTEN TESTIMONY ONLY

My name is Gerald C. Yoshida, an attorney in the Honolulu law firm of Char Hamilton Campbell & Yoshida. Our firm provides legal services to a number of captive insurance companies currently licensed in the State of Hawai'i. I am also Chairman of the Legislative Committee of the Hawai'i Captive Insurance Council (HCIC), a trade organization of captive insurance companies and service providers who comprise and support Hawai'i's captive insurance industry.

Our testimony will be limited to our support of Sections 4 and 5 of H.B. No. 1074, H.D. 1. These sections clarify that insurers may meet their capital and reserve requirements in Hawaii Revised Statutes ("HRS") § 431:6-201 with investments in common stocks, common trust funds, mutual funds, and exchange traded funds, subject to certain limitations. After meeting HRS § 431:6-201 requirements, insurers may invest any of its funds in these securities. We believe the clarification provided in Sections 4 and 5 of H.B. No. 1074, H.D. 1 would provide Hawaii captives greater flexibility in investing their assets.

Thank you for this opportunity to submit testimony on this measure.

Respectfully submitted:

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