

**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

H.B. NO. 262, H.D. 1, RELATING TO INSURANCE FRAUD.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Monday, March 2, 2009 TIME: 12:30 PM

LOCATION: State Capitol, Room 308

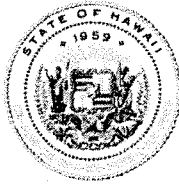
TESTIFIER(S): WRITTEN TESTIMONY ONLY,
For more information, call Lance Goto, Deputy Attorney
General, at 586-1160

Chair Oshiro and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

The purpose of this bill is to expand the authority of the Department of Commerce and Consumer Affairs' Insurance Division to prevent, investigate, and civilly and criminally prosecute insurance fraud of all types, beyond the current motor vehicle insurance cases, but excluding worker's compensation cases.

On page 14, the proposed section 431:2-J provides that criminal fines collected from insurance fraud prosecutions shall be deposited into the Compliance Resolution Fund. This provision is inconsistent with, and does not account for, section 706-643(2), Hawaii Revised Statutes, which requires that all criminal fines collected by the court be deposited into the state general fund. If this bill is passed, section 706-643(2) must be amended to allow for special treatment of the fines intended for the Compliance Resolution Fund.



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

March 2, 2009
12:30 p.m.

TESTIMONY ON HOUSE BILL NO. 262 H.D. 1 - RELATING TO INSURANCE FRAUD

TO THE HONORABLE MARCUS R. 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 bill.

This bill is similar to a consensus bill developed in meetings with private plaintiffs'
attorneys, insurance agents' associations, health insurers, property and casualty
insurers and life insurers in 2004. However, this bill does not include the workers'
compensation insurance provisions that were included at that time.

The purpose of this bill is to expand the authority of the Insurance Division's
insurance fraud investigations unit ("IFIU") to investigate and prosecute insurance fraud
beyond auto 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 IFIU 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 unit is governed by HRS § 431:10C-307.8. According to the Attorney General's Office, the current placement of the IFIU in Article 10C, rather than in Article 2, restricts the IFIU's jurisdiction to motor vehicle insurance fraud. This placement causes confusion and may prompt arguments by defense counsel that the IFIU lacks authority to prosecute insurance fraud in other insurance lines. The original intent of the Fraud Unit was to cover all lines of insurance. This bill corrects this problem and allows the Insurance Division to pursue fraud in all lines 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.

Additionally, this bill will have the positive effect of assisting in the workload of other state law enforcement agencies by allowing the insurance fraud investigations unit to take action in preventing, investigating, and prosecuting all types of insurance fraud. With the passage of this bill, a more comprehensive approach will be taken to deter perpetrators and make them aware that insurance fraud of any type will not be tolerated.

Insurance fraud continues to affect every household in Hawaii and every business 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 businesses money.

Additional staffing and/or funding is not being requested with the passage of this bill. The Insurance Division will evaluate additional staffing needs at a future date to determine if additional staffing may result in greater prevention and deterrence of insurance fraud.

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

HMSA



Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

March 2, 2009

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

House Committee on Finance

Re: HB 262 HD1 – Relating to Insurance Fraud

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 HB 262 HD1.

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 HB 262 HD1 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.

Thank you for the opportunity to testify in support of HB 262 HD1.

Sincerely,

Jennifer Diesman
Assistant Vice President
Government Relations



HAWAII

516 Kawaihae Street Suite E Honolulu, HI 96825

House Committee on Finance
Representative Marcus Oshiro, Chair

House Bill 262, HD 1 – Relating to Insurance Fraud

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.

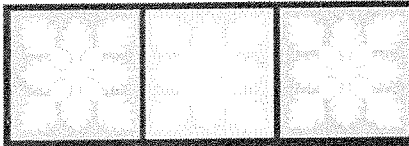
We support this measure.

HB 262, HD 1, will establish a new part in Chapter 431, HRS, titled "Insurance Fraud". A new "insurance fraud investigations branch" will also be established to regulate insurance fraud. HB 262, HD 1, specifically excludes workers' compensation.

This measure on insurance fraud has been addressed since the 2004 legislative session in cooperation with Insurance Division. From the 2005 to 2008 legislative sessions, a consensus draft was introduced which represented the stakeholders from the insurance sector and Insurance Division.

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

Cynthia Hayakawa
Executive Director
Phone: 394-3451



Hawaii Association of Health Plans

March 2, 2009

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

House Committee on Finance

Re: HB 262 HD1 – Relating to Insurance Fraud

Dear Chair Oshiro, Vice Chair Lee 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 seven (7) 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 HB 262 HD1 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.

• AlohaCare • HMAA • HMSA • HWMG • MDX Hawaii • UHA • UnitedHealthcare •
HAHP c/o Howard Lee, UHA, 700 Bishop Street, Suite 300 Honolulu 96813
www.hahp.org

The measure before you today represents this collaborative effort and we would respectfully urge the committee to support HB 262 HD1. Thank you for the opportunity to testify 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

AMERICAN COUNCIL OF LIFE INSURANCE
TESTIMONY IN SUPPORT OF HB 262, HD 1
RELATING TO INSURANCE FRAUD

March 2, 2009

Via E Mail: fintestimony@capitol.hawaii.gov

Hon. Representative Marcus R. Oshiro, Chair
Committee on Finance
State House of Representatives
Hawaii State Capital, Conference Room 308
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Oshiro and Committee Members:

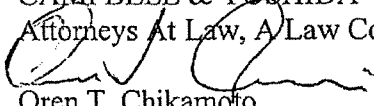
Thank you for the opportunity to testify in support of HB 262, HD 1, relating to Insurance Fraud.

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.

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

Accordingly, ACLI supports HB 262, HD 1, which expands the authority of the Insurance Division's new name, Insurance Fraud Investigations Branch, under the Department of Commerce and Consumer Affairs to prevent, investigate, and prosecute both civilly and criminally insurance fraud beyond motor vehicle insurance case to all lines of insurance except worker's compensation.

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


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**HOUSE COMMITTEE ON
FINANCE**

March 2, 2009

House Bill 262, HD 1 Relating to Insurance Fraud

Chair Oshiro and members of the House Committee on Finance, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders. State Farm supports House Bill 262, HD 1 Relating to Insurance Fraud.

State Farm supports this bill as written. House Bill 262, HD 1 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.