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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Thursday, April 2, 2009  
3:00 p.m.  
AGENDA #2

**TESTIMONY ON SENATE BILL NO. 892, 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 hearing this bill. The Department strongly supports this  
Administration bill, with requested amendments.

The House companion bill, House Bill No. 1074, H.D. 2, crossed over to the  
Senate in substantially similar form.

The purpose of this version of the 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) 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;

- (3) Including in HRS § 431:7-206 a time limit for claiming the retaliatory tax credit;
- (4) 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;
- (5) Allowing under HRS § 431:9A-222.5 a limited adjuster license for crop insurance claims;
- (6) Amending HRS § 431:9A-124(b) regarding the number of continuing education credit hours required for insurance producer license renewal;
- (7) Requiring the Commissioner to notify insurance producers of the new continuing education requirements in HRS § 431:9A-124;
- (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; and
- (9) Adding in Part II the contents of House Bill No. 1072, H.D. 1, which authorizes the Commissioner to conduct criminal history records checks and requires insurance license applicants to provide a set of fingerprints.

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 §§ 431:6-317 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.

The purpose of Part II of the bill, adopting House Bill No. 1072, H.D. 1, 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 by screening applicants for felony convictions

The Department respectfully requests the following amendments:

**1. HRS § 431:3-302.5(c)**

The H.D. 1 deleted the amendment to HRS § 431:3-302.5(c). 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 provisions relating to the Annual Financial Reporting Model Regulation (or model audit rule) 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.

In its written testimony, HMSA objected to this amendment on the grounds that it would allow the Commissioner to adopt rules that did not conform to the NAIC practices and procedure manual. Rulemaking is a public process conducted pursuant to HRS chapter 91 that allows input by interested parties. Since the rules must be acceptable to the NAIC Accreditation team, the proposed rules must conform with accepted NAIC

practices and procedures. We have discussed proposed language with HMSA and are working with them to come to a consensus. The Department believes that it is inadvisable to make an express reference in the statute to the Annual Financial Reporting Model Regulation, as the name of the model regulation may change and may constitute an impermissible delegation of authority.

The Department respectfully requests adding the following amendment such that section 3 of the bill on page 6, line 4, reads:

SECTION 3. Section 431:3-302.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The audit required in subsection (a) and the audited, consolidated, or combined financial statements as may be approved under subsection (b) shall be prepared in accordance with the National Association of Insurance Commissioners' [annual statement instructions,] accounting practices and procedures manual and rules adopted by the commissioner following the practices and procedures prescribed by the National Association of Insurance Commissioners[~~-'accounting practices and procedure manuals].~~"

**2. Effective date for section 3 of the bill**

Section 19, paragraph (1) of this version of the bill provides an effective date of January 1, 2010, for section 3 of the bill. As presently drafted, section 3 of the bill applies to HRS § 431:6-317.

If the above language amending HRS § 431:3-302.5 is added as section 3 of an H.D. 2, the effective date of January 1, 2010, will be accurate and no change is needed.

If this Committee is not inclined to add the amendment for HRS § 431:3-302.5, the Department respectfully requests that the language in section 19, paragraph (1) be stricken, such that the July 1, 2009 effective date applies to HRS §§ 431:6-317 and 431:6-322.

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 amendments.

# HMSA



Blue Cross  
Blue Shield  
of Hawaii

An independent licensee of the Blue Cross and Blue Shield Association

April 2, 2009

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

House Committee on Finance

**Re: SB 892 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 on SB 892 SD1 HD1.

Previously this measure contained language which directed the Insurance Division to adopt the National Association of Insurance Commissioners' (NAIC) Model Audit Regulation (MAR) into administrative rules. The NAIC has requested that the 12 states in the nation that currently reference the NAIC Annual Statement Instructions in statute instead adopt the MAR. Hawaii is one of the 12 states whose statutes should be updated.

The section of SB 892 that contained this language has been removed in its entirety. Since the last hearing on this measure, we have been working with the Insurance Division on language to ensure that the state maintains its NAIC accreditation and that the proposed Administrative Rules will adhere to MAR. As such, we support the proposed amendments being made to SB 892 by the Insurance Division today. We encourage the Committee to reinsert this language to ensure the state's continued compliance with NAIC accreditation standards.

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



HAWAII

516 Kawaihae Street, Suite E Honolulu, HI 96825

House Committee on Finance  
Representative Marcus Oshiro, Chair

**Senate Bill 892, SD 1, HD1 – Relating to Insurance**

**Hearing Date: Thursday – April 2, 2009**  
**Agenda # 2**

**Time: 3:00 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, and disability income insurance products and provide financial advice.

We are limiting our comments to Sections 9 and 12 of SB 892, SD1, HD1. **Section 9** will amend the number of continuing education credit hours required to maintain producer licenses. 24 continuing education credits over a 2-year period is the uniform requirement nationwide. **Section 12** will add new fingerprinting requirements for insurance agents which 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.

**We fully support Section 9** that 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 license) and a new part adding 3 hours of ethics training or insurance laws and rules pertaining to that line of authority.

SB 892, SD 1, HD 1, will also amend the current law for those with licenses in **both** life/accident/health **and** property casualty, whereby, the required credit hours will **decrease** from 30 to 24 -- 10 hours will relate to life/accident/health; 11 hours will relate to property casualty and a new part adding 3 hours of ethics training or insurance laws.

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 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 insurance producers be required to have both Hawaii

House Finance Committee  
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Testimony of NAIFA Hawaii – page 2

insurance laws/rules **and** ethics training may be unique to Hawaii but both these areas are important components to the competency of insurance producers.

**We do support Section 12 but do have a concern** regarding Section 12, as it relates to the fee amount for the criminal history record and fingerprinting check that will be determined by the Insurance Commissioner. Insurance agents already pay for their insurance license fee(s) and this will be an additional fee, over and above the cost of the fingerprinting.

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

Cynthia Hayakawa  
Executive Director  
Ph: 394-3451



TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
IN SUPPORT OF S.B. 892, SD 1, HD 1, RELATING TO INSURANCE

April 2, 2009

Via E Mail: [fintestimony@capitol.hawaii.gov](mailto:fintestimony@capitol.hawaii.gov)

Hon. 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 Senate Bill 892, SD 1, HD 1, relating to Insurance.

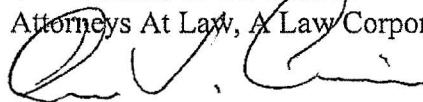
Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred forty (340) member company's account for 94% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI 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 generally supports legislation which modernizes a State's insurance laws to conform to uniform national standards.

ACLI supports SB 892, SD 1, HD 1, which updates Hawaii's Insurance Code and adopts key provisions of the National Association of Insurance Commissioners' Authorization for Criminal History Record Check Model Act.

Again, thank you for the opportunity to testify in support of SB 892, SD 1, HD 1.

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



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TESTIMONY ON S.B. NO. 892, S.D. 1, H.D. 1  
RELATING TO INSURANCE

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

Thursday, April 2, 2009, 3:00 p.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 nonprofit 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 3 and 4 of S.B. No. 892, S.D. 1, H.D. 1, with a proposed amendment. 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 3 and 4 of S.B. No. 892, S.D. 1, H.D. 1, would provide Hawaii captives greater flexibility in investing their assets. In addition, we respectfully request that the bill be amended so that Sections 3 and 4 of the bill take effect on July 1, 2009.

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

Respectfully submitted:

Gerald C. Yoshida  
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