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TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION  
& COMMERCE AND JUDICIARY

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Monday, March 23, 2009  
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 892, S.D. 1 – 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, 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 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.

The Department respectfully requests the following amendments:

1. Section 8 of the bill on page 12, lines 5-8 refers to license renewal of the limited adjuster's license. Since both the workers' compensation and crop insurance adjuster's licenses require renewal on reexamination, the references to "workers' compensation" should be deleted such that subsection (b) on page 12, lines 5-8 reads:

"(b) An adjuster with a limited license issued under this section may extend the license biennially upon successfully passing a reexamination. ~~[on workers' compensation.]~~"

2. House Bill No. 1072 and the Senate companion bill did not survive the First Crossover. The purpose of House Bill No. 1072 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.

Given the important of screening applicants for felony convictions, the Department requests that the contents of House Bill No. 1072 be inserted into this bill. This bill and House Bill No 1072 have the same committee referrals.

We thank the Committee for the opportunity to present testimony on this measure and respectfully request that an H.D. 1 be issued with the requested amendments.

# HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

March 23, 2009

The Honorable Robert N. Herkes, Chair  
The Honorable Jon Riki Karamatsu, Chair

House Committees on Consumer Protection and Commerce and Judiciary

**Re: SB 892 SD1 – Relating to Insurance**

Dear Chair Herkes, Chair Karamatsu and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 892 SD1. HMSA has concerns with the language in Section 3 of this measure but takes no position on the remainder of the bill.

In Section 3 of SB 892 SD1, proposed language would seem to give the Insurance Commissioner the latitude to draft rules concerning how health plans are audited that may not follow the National Association of Insurance Commissioners' (NAIC) guidelines. We would respectfully request clarifying language be added to this section to ensure that the rules drafted by the Insurance Commissioner mirror the NAIC guidelines which health plans are already following today. To accomplish this we would request amendments so that page 6, line 12 would read as follows:

[.] , or rules adopted by the commissioner which shall only include the National Association of Insurance Commissioners' annual statement instructions, following the practices and procedures prescribed by the National Association of Insurance Commissioners' accounting practices and procedure manuals.

This language would ensure that any administrative rules adopted by the Insurance Commissioner mirror NAIC guidelines. 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 THE AMERICAN COUNCIL OF LIFE INSURERS  
IN SUPPORT OF S.B. 892, SD 1, RELATING TO INSURANCE

March 23, 2009

Via E Mail: [cpctestimony@capitol.hawaii.gov](mailto:cpctestimony@capitol.hawaii.gov)  
Hon. Robert N. Herkes, Chair  
Committee on Consumer Protection and Commerce  
Hon. 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 testify in support of Senate Bill 892, SD 1, relating to Insurance.

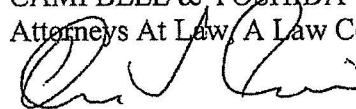
Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred forty (340) member company's account for 94% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI 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, which updates Hawaii's Insurance Code.

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

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



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

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair  
Rep. Glenn Wakai, Vice Chair

HOUSE COMMITTEE ON JUDICIARY

Rep. Jon Riki Karamatsu, Chair  
Rep. Ken Ito, Vice Chair

Monday, March 23, 2009, 2:00 p.m.  
State Capitol, Conference Room 325

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 S.B. No. 892, S.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 S.B. No. 892, S.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:

Gerald C. Yoshida  
Char Hamilton Campbell & Yoshida  
737 Bishop Street, Suite 2100  
Honolulu, Hawai'i 96813  
Ph: 524-3800





**HAWAII**

516 Kawaihae Street, Suite E Honolulu, HI 96825

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

House Committee on Judiciary  
Representative Jon Riki Karamatsu, Chair

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

**Hearing Date: Monday – March 23, 2009**

**Time: 2:00 PM**

Chair Herkes, 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, who primarily sell life insurance, long term care, and disability income insurance products and provide financial advice.

We are limiting our comments to the continuing education credit hours in Section 9 of SB 892, SD1, that 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. The companion measure to this administrative bill is HB 1074, HD2, that is in the Senate.

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 license); a new part adding 3 hours of ethics training or insurance laws and rules pertaining to that line of authority.

SB 892, SD 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; a new part adding 3 hours of ethics training; and 2 hours of insurance laws and rules relating to the respective lines of authority.

**We ask to delete:** “two credit hours shall relate to the insurance laws and [the] rules relating to the line of authority for which the license is held; [and]” in (b)(2)(A) and (2)(B). Section (b)(2)(C) adds the 3 hours of ethics training or insurance laws and rules. It was not the intention to require producers to 5 hours of ethics training or insurance laws and rules.

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Testimony of NAIFA Hawaii – page 2

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 producers be required to have both 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



# HIIA

## ***Hawaii Independent Insurance Agents Association***

March 20, 2009

To: Representative Robert N. Herkes, Chair  
Representative Glenn Wakai, Vice Chair  
Committee on Consumer Protection & Commerce

Representative Jon Riki Karamatsu, Chair  
Representative Ken Ito, Vice-Chair  
Committee on Judiciary

From: Hawaii Independent Insurance Agents Association

Re: SB892, SD1 Relating to Insurance – Updates references in Insurance Code and Continuing Education requirements for insurance licensees.  
Hearing: Monday, March 23, 2009 2:00 pm Conference Room 325

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The Hawaii Independent Insurance Agents **supports** SB892, SD1 with regard to amendment to HRS section 431:9A-124 dealing with Continuing Education as indicated:

Single Line of Authority

21 credit hours in line of authority  
3 credit hours in insurance laws, insurance rules or ethics training  
24 total credit hours

Dual Line of Authority –

10 credit hours relating to Life & Health topic  
11 credit hours relating to Property & Casualty topic  
3 credit hours in insurance laws, insurance rules or ethics training  
24 total credit hours

The proposed Continuing Education requirement will still continue to achieve uniformity and reciprocity as recommended by the National Association of Insurance Commissioners.

HIIA is a non profit trade association of independent insurance producers dedicated to assisting the insurance buying public with their insurance needs. We are the state affiliate for the Independent Insurance Agents & Brokers of America which also supports the uniformity and reciprocity intent of the Producer Licensing Law.

Thank you for opportunity to testify.