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TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION
& COMMERCE AND JUDICIARY

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Thursday, March 11, 2010
2:00 p.m.

TESTIMONY ON SENATE BILL NO. 2697, 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 purpose of this version of the bill is to modernize the Insurance Code, Hawaii
Revised Statutes (“HRS”) chapter 431, and insurance-related provisions by:

- (1) Extending to property and casualty insurers confidentiality of documents supporting the statement of actuarial opinion, similar to that afforded to life insurers;
- (2) Allowing port-of-entry insurers in HRS § 431:4F-103(a) to diversify assets used to satisfy capital and surplus requirements;
- (3) Promoting uniformity of licensing laws governing insurance producers, adjusters, and independent bill reviewers by revising HRS §§ 431:9-203(d) and 431:9A-107(f), allowing licensees to report address changes online in HRS §§ 431:9-228(b) and 431:9A-122(c), and adding to Article 9 a new section similar to HRS § 431:9A-117;

- (4) Allowing the results of third-party proficiency examinations approved by the federal Risk Management Agency to fulfill the examination requirement in section 431:9-222.5(a) for crop insurance adjusters;
- (5) Updating managing general agent laws in Article 9C to conform with the current National Association of Insurance Commissioner (NAIC) model law;
- (6) Clarifying in HRS § 431:10-244 that insurance contracts requiring the Commissioner's approval under the Insurance Code, temporary disability insurance law, or workers' compensation law or certified by the insurer to be in conformance with the Insurance Code must be accompanied by the filing fee;
- (7) Allowing insurers to certify compliance with HRS §§ 431:10A-105, 431:10A-106, 431:10A-107, and 431:10D-111, rather than requiring the Commissioner's approval of these policy provisions;
- (8) Allowing the Commissioner to publish notice of availability of motor vehicle insurance ("MVI") premium rates and to request detailed reports on MVI claims and cancellations, rather than mandating filing of these reports, in HRS §§ 431:10C-210 and 431:10C-215(d), respectively;
- (9) Clarifying in HRS § 431:11-101(b) that the exemption in the insurance holding company law applies to any insurer, as well as any class of insurers, where it is consistent with the law and serves the public interest;
- (10) Substituting the term "person" for "corporation" in HRS § 431:11-106(a);
- (11) Adding to HRS §§ 431:19-107(b), 432:1-404(a), and 432D-5(a) an express reference to rules governing audited financial statements for captive insurers, mutual benefit societies, and health maintenance organizations, respectively;
- (12) Adding consumer protection measures:
 - (a) To require in HRS §§ 431:2-208(c) and 431:13-103(f) prompt response from insurers and licensees to the Commissioner's request for information;
 - (b) To provide additional time in HRS § 431:10D-603(c) for consumers to review annuity policy during "free-look" period, where producer does not provide buyer's guide and disclosure documents as required by law; and

- (c) To provide in HRS § 431:9N-102 for revocation or suspension of bail agent's license for failure to discharge bail forfeiture judgments;
- (13) Deleting in 431:19-109(a) the reference to a repealed statute; and
- (14) Amending HRS §§ 431:30-102 and 431:30-112(d) and repealing HRS § 431:30-105 of the interstate insurance product regulation compact ("IIPRC") to designate the Commissioner as the representative to the IIPRC, to allow the State to opt out of uniform standards for long-term care insurance products, and to delete the appointment and confirmation of Hawaii's IIPRC representative, respectively.

Enactment of these provisions is necessary so that Hawaii is uniform with the best practices in insurance regulation.

Property and casualty insurers are now required to file the actuarial opinion summary in addition to the statement of actuarial opinion. Confidentiality for the documents supporting the actuarial opinion is currently provided to life insurers in HRS § 431:5-307(j)(4)(G). Adding a new section to Part III of Article 3 extends to property and casualty insurers confidentiality of the documents supporting the statement of actuarial opinion, including the actuarial opinion summary, actuarial reports, and working papers.

HRS §§ 431:2-208(c) and 431:13-103(f) currently require an insurer or licensee to respond with reasonable promptness to any written inquiry made by the Commissioner regarding a claim or consumer complaint. These sections do not ensure that insurers and licensees provide prompt responses to the Commissioner's inquiries. This amendment will aid the Commissioner's ability to conduct investigations adequately and encourage timely and consistent responses to the Commissioner's inquiries.

HRS § 431:4F-103(a)(2) currently refers to a single trust account that a port-of-entry insurer must establish as a condition of licensure. These amendments will allow port-of-entry insurers to diversify the assets used to satisfy capital and surplus requirements, therefore reducing the concentration of risk.

Insurance adjusters, independent bill reviewers, and producers are currently required to report any change of status to the Commissioner within 30 days of the change, pursuant to HRS §§ 431:9-203(b) and 431:9A-107(f).

Licensees are currently required to report their business and residence addresses, which must be physical locations. Since some licensees use mailing addresses, the meaning of change of status in HRS §§ 431:9-203(d) and 431:9A-107(f) needs revision to include the mailing address.

Licensees are now able to report address changes online via the National Insurance Producer Registry ("NIPR"). Thus, amending HRS §§ 431:9-228(b) and 431:9A-122(c) will facilitate this process and use statutory language consistent with HRS §§ 431:9-203 and 431:9A-107(f).

Applicants for a crop insurance adjuster license are currently required to take a licensing examination, pursuant to HRS § 431:9-222.5(a)(3). Allowing applicants to use the results of a third-party proficiency examination approved by the federal Risk Management Agency ("RMA") ensures that these adjusters demonstrate a strong understanding of the crop insurance program. The Department notes that this amendment is contained in another bill, Senate Bill No. 2017 relating to Insurance Claims Adjusters. Senate Bill No. 2017 passed Third Reading in the House on March 5, 2010, and has been enrolled with the Governor.

HRS § 431:9A-117 currently requires producers to report within 30 days any civil, administrative, and criminal actions taken against the producer. To ensure the public's protection and for consistency with HRS § 431:2-201.3, adjusters and independent bill reviewers should similarly be required to report any action taken against them.

HRS § 431:9C-103 requires managing general agents ("MGA") to furnish with the insurer a bond in an amount equal to \$100,000 or 10% of annual gross direct written premiums, whichever is greater. Presently, Hawaii law requires an MGA to furnish a bond as part of the requirements of licensing. The NAIC adopted amendments to its Managing General Agents Model Law that move this requirement from licensing and make it a part of the required contract provisions between the insurer and the MGA. This revision places the burden of compliance with the insurer, the party who is

statutorily responsible for the MGA's acts. This revision also makes sense because, as explicitly stated in HRS § 431:9C-102, the bond requirement is for the protection of the insurer. This being the case, benefit will ultimately inure to consumers should problems develop with the MGA.

The upper bond amount limit of 10% requires insurers writing large amounts of direct written premiums to furnish bonds in an extraordinarily high amount, conceivably in the millions of dollars. This has had a deterrent effect on large insurance companies desiring to do business in the State of Hawaii. Recognizing this problem, the NAIC revised the Managing General Agents Model Act to impose the \$500,000 cap on the bond requirement. Adoption of this cap, as proposed, will improve Hawaii's business climate for insurers, which in turn will improve the State's competitiveness in the global insurance industry and enhance its potential to increase insurance options for its businesses and residents. This amendment also will conform Hawaii law to national standards, thus improving reciprocity with the other states.

HRS § 431:9C-102 also requires the MGA to maintain an errors and omissions policy in an amount equal to \$1 mil. or 25% of annual gross direct written premiums, whichever is greater. As with the 10% upper limit on bond requirements, the 25% upper limit applicable to the coverage amount for the errors and omissions policy requirement has a deterrent effect on insurance companies writing large amounts of direct written premiums since it may result in requiring the MGA to have an errors and omissions policy in the amount of several million dollars.

The NAIC's Managing General Agents Model Act authorizes but does not require state commissioners to impose errors and omissions policy requirements on managing general agents. Having enacted the errors and omissions requirement for the MGA, Hawaii law provides enhanced protections that other states may not provide. As with the bond requirements, the proposed deletion of the 25% upper limit will enhance our State's potential to increase insurance options for its businesses and residents, while still providing for \$1 mil. coverage requirement. Furthermore, the inclusion of the errors and omissions requirements in the insurer's required contract provisions, rather than as part of licensing, will again place the burden of compliance with the insurer, the party

who is statutorily responsible for the MGA's acts. Accordingly, this revision to HRS § 431:9C-103 ultimately will benefit consumers should problems develop with the MGA.

As a means of ensuring compliance by the insurer, HRS § 431:9C-104 allows any applicable insurance commissioner to view the bond and errors and omissions policy.

HRS § 431:9N-102 provides grounds to deny, nonrenew, suspend, or revoke a bail agent's license, in addition to those provided in HRS § 431:9A-112. The Insurance Division has received complaints about bail agents who have not satisfied bail forfeiture judgments. This amendment will provide an additional ground for taking enforcement action against errant bail agents.

HRS § 431:10-244 provides for the filing of insurance contracts requiring the Commissioner's approval pursuant to the workers' compensation and temporary disability laws to be accompanied by a filing fee. This amendment seeks to clarify the scope of insurance contracts to include those filed under the Insurance Code, including the interstate insurance product regulation compact.

Insurers are required to include certain policy provisions, or to use substantially similar language that is not less favorable to insureds and beneficiaries, in accident and health or sickness policies and to obtain the Commissioner's approval, pursuant to HRS §§ 431:10A-105, 431:10A-106, 431:10A-107, and 431:10D-111. Permitting insurers to certify compliance in lieu of awaiting the Commissioner's approval facilitates insurers' ability to market their products and reduces the cost and burden of regulatory compliance. These amendments also streamline operations and improve administrative efficiency for the Insurance Division.

HRS § 431:10C-210 currently requires the Commissioner to publish annually in the newspaper a list of all motor vehicle insurers with representative annual premiums. This information is also currently available online on the Insurance Division's website. This amendment would allow the Commissioner to publish notice of availability of this information on the website, rather than requiring the Commissioner to prepare and publish this information in five different publications, including publications in each county.

HRS § 431:10C-215(d)(2) currently requires motor vehicle insurers to provide quarterly reports detailing each claim received, claim paid, application and sale of a MVI policy, each termination and renewal refusal notice posted, and each cancellation and refusal to renew effected on both mandated and optional MVI policy transactions. This amendment would make the reports available to the Commissioner at the Commissioner's request, reducing the cost of compliance for motor vehicle insurers.

HRS § 431:10D-603 currently requires a life insurance producer to provide a buyer's guide and a disclosure statement to consumers when the application for an annuity contract is taken. Where the buyer's guide and disclosure statement are not provided, a free-look period of 15 days is provided for the applicant to return the annuity contract, pursuant to HRS § 431:10D-603(c). Under current law, this 15-day period runs concurrently with the free-look period provided under law. HRS §§ 431:10-214 and 431:10D-505(a)(4) provide a 10-day and 30-day free-look period, respectively. Where no annuity policy is being replaced, the ten-day free-look period applies and the consumer gets only an additional five days to review the annuity contract, where the additional 15-day runs concurrently with the 10-day period. Where there is a replacement, the 30-day free-look period applies and the consumer gets no additional time to review the annuity contract, since the additional 15-day period runs concurrently with the 30-day period. Given this scenario, HRS § 431:10D-603(c) does not provide incentive for the producer to comply with these disclosure requirements. This amendment is intended to provide some means of consumer protection, where there is non-compliance by the producer.

HRS § 431:11-101(b)(1) currently allows the Commissioner to exempt any class of insurers from provisions of the insurance company holding company law in Article 11, where an exemption is consistent with the purposes of Article 11 and serves the public interest. This amendment clarifies that the exemption applies to any insurer, in addition to any class of insurers, providing the Commissioner with the flexibility to act timely in cases where prompt action is appropriate and consistent with the public interest.

HRS § 431:11-106(a)(5) currently requires a domestic insurer to notify the Commissioner within 30 days of an investment in any corporation, where the total

investment by the insurance holding company in any one corporation exceeds 10% of the corporation's voting securities. This amendment substitutes "person" for "corporation" for consistency with the definitions in section 431:11-102.

HRS §§ 431:19-107(b)(1)(C), 432:1-404(a)(1), and 432D-5(a)(1) currently expressly refer to NAIC annual statement instructions. The NAIC intends to delete reference to the model audit rule from the annual statement instructions and requires state insurance regulators to adopt these provisions by January 1, 2010, either by statute or rule. The Commissioner proceeded to adopt rules pertaining to the model audit rule; Hawaii Administrative Rules ("HAR") chapter 16-185 was approved by the Governor and filed with the Lieutenant Governor on January 25, 2010. Thus, the statutory references in HRS §§ 431:19-107(b)(1)(C), 432:1-404(a)(1), and 432D-5(a)(1) to NAIC annual statement instructions became outdated upon adoption of the rules.

Section 431:19-109(a)(2) currently refers to section 431:19-105, which was repealed by Act 232, Session Laws of Hawaii 2007. Therefore, this reference is outdated and needs to be deleted. The Department notes that this amendment is also contained in House Bill No. 2286 and Senate Bill No. 2812, S.D. 1, both relating to Captive Insurance Companies. Senate Bill No. 2812, S.D. 1, passed Third Reading in the House on March 5, 2010, and has been enrolled with the Governor.

Hawaii adopted the IIPRC in Article 30 of the Insurance Code effective January 1, 2005, pursuant to Act 104, Session Laws of Hawaii 2004. HRS § 431:30-102 currently defines the member of the IIPRC as the person chosen by the compacting state and HRS § 431:30-105 requires the Governor, with the advice and consent of the Senate, to appoint Hawaii's member to the IIPRC. The majority of compacting states designate the Insurance Commissioner or the Commissioner's designee as the member who represents the state on the IIPRC. HRS § 431:30-102 currently defines the commissioner to mean the chief insurance regulatory official of a state. The proposed amendments define Hawaii's representative to the IIPRC as the Commissioner or the Commissioner's designee. With the foregoing, HRS § 431:30-105 is no longer necessary and should be repealed. These amendments would streamline the Insurance Code and promote national uniformity of state laws governing the IIPRC.

HRS § 431:30-112(d)(2) currently allows a state belonging to the IIPRC to opt out of a uniform standard, where the uniform standard does not provide reasonable protections to its state's citizens. Hawaii adopted the Long-Term Care Insurance Model Regulation in Article 10H. Hawaii law provides additional standards for federal uniformity, availability for reciprocal beneficiaries in accordance with state law, and flexibility and innovation in the development of long-term care insurance coverage. Given the foregoing protections, allowing Hawaii to opt out of the uniform standard for long-term care insurance promotes the public's interest.

The above represent efforts to promote national uniformity of insurance laws, streamline operations, improve administrative efficiency, contribute to the Insurance Division retaining NAIC accreditation, and reduce the cost of insurance regulation.

The Department has conferred with interested stakeholders and reached consensus with respect to sections 3 and 25 of this version of the bill.

On sections 3 and 25 of the bill, the Hawaii Insurers Council, HMSA, PCI, and USAA have agreed to compromise language offered by the Department as stated below.

SECTION 3. Section 431:2-208, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) An insurer or licensee shall issue a written response with reasonable promptness, in no case more than fifteen working days, to any written inquiry made by the commissioner regarding a claim, ~~[or]~~ consumer complaint, or sales or marketing practice. The response shall be more than an acknowledgement that the commissioner’s communication has been received, and shall adequately address the concerns stated in the communication.”

* * * * *

SECTION 25. Section 431:13-103, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) An insurer or licensee shall issue a written response with reasonable promptness, in no case more than fifteen working days, to any written inquiry made by the commissioner regarding a claim, ~~[or]~~ consumer complaint, or sales

or marketing practice. The response shall be more than an acknowledgement that the commissioner's communication has been received, and shall adequately address the concerns stated in the communication."

The Department notes that section 6 of this bill amends HRS § 431:9-222.5(a) to allow crop adjusters to fulfill the licensing examination requirement with an examination approved by the federal Risk Management Agency. This amendment is contained in another bill, Senate Bill No. 2017, Relating to Insurance Claims Adjusters, which passed Third Reading in the House on March 5, 2010, and has been enrolled with the Governor.

The Department also notes that section 27 of this version of the bill amends HRS § 431:19-109(a)(2) by deleting the reference to section 431:19-105, which is a repealed section. This amendment is also contained in House Bill No. 2286 and Senate Bill No. 2812, S.D. 1, Relating to Captive Insurance Companies. Senate Bill No. 2812, S.D. 1, passed Third Reading in the House on March 5, 2010, and has been enrolled with the Governor.

Based on the foregoing, it may be prudent to delete sections 6 and 27 of this version of the bill.

Section 12 of this version of the bill amends HRS § 431:9C-103. On page 12, line 2, the word "to" needs to be added after the word "right" such that the phrase reads "the right to access and to copy all".

Section 34 of this version of the bill contains a defective effective date of July 1, 2050. The Department respectfully requests amending section 34 of the bill such that the effective date is July 1, 2010.

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

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

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

HOUSE COMMITTEE ON JUDICIARY

Representative Jon Riki Karamatsu, Chair
Representative Ken Ito, Vice Chair

Thursday, March 11, 2010
2:00 p.m.

S.B. 2697, S.D. 1

Chair Herkes, Chair Karamatsu and members of the Committees, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 45% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **supports** S.B. 2697, S.D. 1, **with amendments**. As currently written, Sections 3 and 25 of the bill would require an insurer to respond to any written inquiry by the Insurance Commissioner within fifteen days. We believe that this would give the Commissioner overly broad authority by applying this requirement to any and all types of inquiries,

Hawaii Insurers Council supports the Insurance Division's amendment, dated February 22, 2010, to Sections 3 and 25 that reads as follows:

"An insurer or licensee shall issue a written response with reasonable promptness, in no case more than fifteen working days, to any written inquiry

made by the commissioner regarding a claim, ~~or~~ consumer complaint, or sales or marketing practice. The response shall be more than an acknowledgement that the commissioner's communication has been received, and shall adequately address the concerns stated in the communication."

Thank you for the opportunity to testify.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



LAWRENCE M. REIFURTH
DIRECTOR

J. P. SCHMIDT
INSURANCE COMMISSIONER

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February 22, 2010

Alison Powers, Executive Director
Hawaii Insurers Council
1003 Bishop Street, Suite 2010
Honolulu, HI 96813

FAX 525-5879

Re: H.B. No 2544/S.B. No. 2697 – Relating to Insurance

Dear Ms. Powers:

As you know, Chairs Herkes and Baker requested that interested stakeholders work together on compromise language with respect to sections 2 and 24 of the above-reference bills.

In this regard, the Insurance Division proposes the following language:

An insurer or licensee shall issue a written response with reasonable promptness, in no case more than fifteen working days, to any written inquiry made by the commissioner regarding a claim, [or] consumer complaint, or sales or marketing practice. The response shall be more than an acknowledgement that the commissioner's communication has been received, and shall adequately address the concerns stated in the communication.

If HIC has suggested language or if there are any questions, please feel free to contact me at 586-2799 or Chris Young at 586-3041.

Very truly yours,

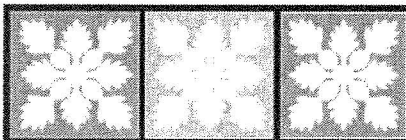
A handwritten signature in black ink, appearing to read "J.P. Schmidt".

J.P. SCHMIDT
Insurance Commissioner

RECEIVED

FEB 25 2010

HAWAII INSURERS COUNCIL



Hawaii Association of Health Plans

March 10, 2010

The Honorable Robert Herkes, Chair
The Honorable Jon Riki Karamatsu, Chair
House Committees on Consumer Protection and Commerce and Judiciary

Re: SB 2697 SD1 – Relating to Insurance

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

My name is Howard Lee and I am 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 SB 2697 SD1 which would expand the authority of the Insurance Commissioner regarding the scope of information he can request from a health plan. Although we take no position on most of this measure, we do have concerns with sections 3 and 25 as worded.

Although only minor changes are being requested to two sections of the Insurance Code, HRS sections 431:2-208 and 431:13-103, the impact on plans could be great. The amendments being proposed to these two sections would remove language which defines the type of information the IC may request from a health plan. Currently the IC may request information from a plan “regarding a claim or a consumer complaint” and the plan has 15 days in which to provide a response. Despite the fact that we do not believe that there is a problem with the existing statute, we support the Insurance Commissioner’s proposed language to add “or sales or marketing practice” to the current measure.

Thank you for the opportunity to testify today.

Sincerely,

Howard Lee
President

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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MEMORANDUM

TO: Representative Robert N. Herkes
Chair, Committee on Consumer Protection and Commerce
Representative Jon Riki Karamatsu
Chair, Committee on Judiciary
VIA EMAIL: CPCtestimony@Capitol.hawaii.gov

FROM: Anne Horiuchi

DATE: March 10, 2010

RE: **S.B. 2697, SD1 – Relating to Insurance**
Hearing: Thursday, March 11, 2010 at 2:00 p.m., Room 325

Dear Chairs Herkes and Karamatsu and Members of the Committees:

I am Anne Horiuchi, testifying on behalf of USAA. USAA, a diversified financial services company, is the leading provider of competitively priced financial planning, insurance, investments, and banking products to members of the U.S. military and their families. USAA has over 82,000 members in Hawaii.

S.B. 2697, SD1 updates and modernizes the Insurance Code and other insurance-related chapters of the Hawaii Revised Statutes. USAA has concerns regarding Section 25 of the bill,¹ and would like an amendment to this Section.

Section 25 of the bill amends Section 431:13-103(f) of the Hawaii Revised Statutes (Unfair methods of competition and unfair or deceptive acts or practices defined). Currently, insurance companies have fifteen working days to respond to the Commissioner's written inquiry regarding a "claim or consumer complaint." S.B. 2697, SD1 revises this section to state that fifteen working days is the permitted response time to *any* written inquiry by the Commissioner. USAA believes that this will be problematic as to several types of inquiries made by the Commissioner.

¹ In the original version of S.B. 2697, the contents of Section 25 were contained in Section 24. Thus, our previous testimony for S.B. 2697 and for the House companion, H.B. 2544, referenced our concerns with Section 24 of the bill.

March 10, 2010

Page 2

For example, when the Commissioner makes an inquiry as to any rate, rule or form filing, the inquiry is typically sent via U.S. mail; once it is received by USAA on the mainland, several days have passed since the letter was authored and mailed. Responding to an inquiry as to a rate, rule or form filing typically requires research, the collection of additional data, the sorting and analysis of that data, the development of policy positions, the preparation of language for new forms, etc. USAA does not believe that it would be possible to do such work in order to “adequately address the concerns” of the Commissioner during such a short period of time.

Additionally, USAA generally receives five or six data calls per year from the Insurance Division. These inquiries usually require data compilation and possibly Information Technology support. It would be very difficult for USAA to respond to a data call within fifteen days. It is our understanding that the typical state standard for such responses is twenty to thirty days.

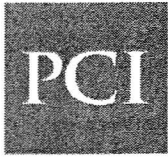
Given the current language of Section 25 of S.B. 2697, SD1, USAA is concerned that the scenarios described above could lead to a finding that USAA has engaged in an unfair or deceptive act or practice because it is unable to respond to rate and form filing inquiries or to data calls within the short time period.

USAA, the Hawaii Insurers Council and other stakeholders worked with the Insurance Division on this provision of S.B. 2697 when it was before the Senate Commerce & Consumer Protection Committee. As part of those efforts, the Insurance Division proposed the following amendment to this section:

An insurer or licensee shall issue a written response with reasonable promptness, in no case more than fifteen working days, to any written inquiry made by the commissioner regarding a claim, ~~or~~ consumer complaint, or sales or marketing practice. The response shall be more than an acknowledgment that the commissioner’s communication has been received, and shall adequately address the concerns stated in the communication.

USAA supports the Insurance Division’s proposed amendment to Section 431:13-103(f).

Thank you for the opportunity to submit testimony on this matter.



**Property Casualty Insurers
Association of America**

Shaping the Future of American Insurance

1415 L Street, Suite 670, Sacramento, CA 95814-3972

To: The Honorable Robert N. Herkes, Chair
House Consumer Protection & Commerce Committee

The Honorable Jon Riki Karamatsu, Chair
House Judiciary Committee

From: Samuel Sörich, Vice President

Re: **SB 2697 SD1 – Relating to Insurance**
PCI Position: Request for Amendment

Date: Thursday, March 11, 2010
2:00 p.m.; Conference Room 325

Aloha Chairmen Herkes and Karamatsu and Committee Members:

The Property Casualty Insurers Association of American (PCI) has some concerns regarding SB 2697 SD1 because it would make it an unfair insurance practice to fail to response to ANY inquiry by the commissioner within 15 days which carries a penalty of up to \$10,000 or license revocation or suspension. Current law is limited to inquiries regarding claims and consumer complaints. The law was limited to these instances because obtaining information is critical to the timely resolution of consumer complaints.

SB 2697 SD1 would expand this requirement and the severe penalty to any request of information from the commissioner. For example, the department might have a question on some elements of a company's rate filing. It is in the company's best interest to respond quickly but the question may be too complicated to answer in fifteen days. Why should a company be required to respond in fifteen days or else face extreme penalties? We believe this is not the department's intent in amending this section and would appreciate the opportunity to work with the department on resolving our concerns.

Amendments have been provided to limit the application of this section to claims, consumer complaints and sales or marketing practice. PCI's supports this amendment which would ensure the commissioner receives a timely response to inquiries without creating additional challenges for the insurers.

We also support another provision of the bill which relates to actuarial reports, working papers and actuarial opinions that insurers submit to the insurance commissioner. The National Association of Insurance Commissioners (NAIC) has developed model language that balances the commissioner's interest in exerting effective regulatory oversight with

insurers' interest in maintaining the confidentiality of proprietary information. SB 2967 SD1 incorporates the NAIC model language. PCI believes the enactment of this language will further the uniformity, efficiency and effectiveness of state insurance regulation.

PCI appreciates the committee's consideration of our request to work with the department to resolve our concerns over the provisions expanding penalties for responding to inquiries.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

March 10, 2010

The Honorable Robert Herkes, Chair
The Honorable Jon Riki Karamatsu, Chair
House Committees on Consumer Protection and Commerce and Judiciary

Re: SB 2697 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 2697 SD1 which makes changes to the Insurance Code. HMSA takes no position on the majority of this measure however we do oppose the current language in Sections 3 (page 4, lines 20-21 through page 5, lines 1-7) and 25 (page 56, lines 16-22 through page 57, lines 1-2).

The language being proposed in SB 2697 SD1 seems rather innocuous and indeed only removes 6 words from 2 different areas of the Insurance Code. Unfortunately, we believe that the removal of this language would give the Insurance Commissioner (IC) expanded authority over health plans which he does not currently have by requiring plans provide him a response to any written inquiry. If SB 2697 SD1 were passed as drafted, the IC's authority over health plans could be greatly expanded.

Although we do not believe that there is an actual issue that SB 2697 SD1 is attempting to address, we are in support of amendments being proposed by the Insurance Commissioner to add the words, "or sales or marketing practice" after the words consumer complaint in each section. We believe that these changes will accomplish the IC's goals while not making the existing language overly broad.

Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD' followed by a flourish.

Jennifer Diesman
Vice President
Government Relations

AMERICAN COUNCIL OF LIFE INSURERS
TESTIMONY COMMENTING ON SB 2697, SD 1,
RELATING TO INSURANCE

March 11, 2010

Via E Mail: cpctestimony@capitol.hawaii.gov
Hon. Representative Robert N. Herkes, Chair
House Committee on Consumer Protection and Commerce
Hon. Representative Jon Riki Karamatsu, Chair
House Committee on Judiciary
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 SB 2697, SD 1, relating to insurance.

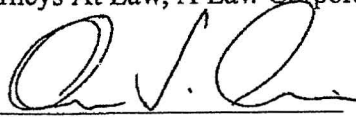
Our firm represents the American Council of Life Insurers (“ACLI”), a national trade association whose three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States account for over 90% of the assets and premiums of the U.S. life insurance and annuity industry. ACLI member company assets account for 93% of the life insurance premiums and 98% of the annuity considerations paid in the State of Hawaii. Two hundred thirty-six (236) ACLI member companies currently do business in the State of Hawaii.

Section 28 of the bill (at pages 60 through 63,) includes a provision (at page 62, lines 14 through 21, and at Page 63, lines 1 and 2) under which Hawaii prospectively opts out of adopting all uniform standards involving long-term care insurance products promulgated by the Commission established under the Interstate Insurance Product Regulation Compact (of which Hawaii is a member). *ACLI opposes this provision.* Hawaii, along with 34 other jurisdictions, is a member of the Interstate Compact. Hawaii agreed to maintain provisions consistent with other compact member states. Deliberations relating to long-term care insurance products are just beginning. Accordingly, Hawaii’s opting out of adopting long-term care insurance product standards at this juncture may be premature.

Again, thank you for the opportunity to comment on this bill.

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