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TO THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION & BUSINESS

TWENTY-SIXTH LEGISLATURE
REGULAR SESSION, 2011

Thursday, February 10, 2011
8:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 782 - RELATING TO THE DEPARTMENT OF
BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM.**

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (Department) appreciates the opportunity to testify in opposition to House Bill No. 782, Relating to the Department of Business, Economic Development, and Tourism. My name is Everett Kaneshige, and I am the Department's Deputy Director. House Bill No. 782, proposes, among other things, to add, for a period of five years, a \$20 surcharge for the next four years, on every fee charged by the Department for the:

- (1) Application, issuance, or renewal of a license, permit, or other authorization for a profession, business, or occupation;
- (2) Examination or audit of a person engaged in a profession, business, or occupation;

- (3) Filing, registration, or renewal of a business document;
- (4) Application for, or registration of, a trade name, trademark, or service mark; or
- (5) Tax on insurance premiums.

In addition, the bill would annually transfer \$2 million of the Department's customers' money located in the Compliance Resolution Fund (CRF) to the Department of Business, Economic Development, and Tourism (DBEDT).

\$20 Surcharge

The proposed \$20 surcharge, in essence, amounts to a tax increase on businesses. From a policy standpoint, the imposition of the proposed surcharge is inconsistent with the Department's long standing focus of reducing the cost of doing business in Hawaii. The Department understands the revenue picture and that principle must be balanced against the need for additional general fund revenues.

The proposal, however, turns the Department into a tax collector, and represents a significant variation on the agreement or understanding that was reached between the Department, the Legislature, and the Department's customers when the CRF was established. It is not clear that there is any direct nexus between the proposed surcharge and the services provided by DBEDT.

Finally, it remains unclear how the surcharge is to be imposed on the various hourly examination fees charged by the Department. For example, a \$20 surcharge on what is now a \$40/hour examination may, if applied on top of the \$40/hour charge (increasing the charge to \$60/hour), significantly increase costs on affected institutions.

Transfer of \$2M from Compliance Resolution Fund

Section 4 of the bill, as proposed, states "beginning July 1, 2011, and ending on June 30, 2015, the sum of \$2,000,000 from the CRF shall be deposited with the director of finance to the credit of DBEDT's operation special fund provided further that, for the same period shall not be derived from regulatory fees and shall instead be derived from taxes, penalties, and other levies set at statutorily prescribed rates or amounts."

The Department will need to evaluate this transfer along with several other transfers from the CRF that have been proposed in other bills before we can determine the total impact on the Department and whether the total proposed transfers would negatively impact the Department's ability to operate and provide services to businesses and the public.

Thank you, for the opportunity to provide testimony on this bill. I would be happy to answer any questions you may have.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN OPPOSITION TO HOUSE BILL 782, RELATING TO THE DEPARTMENT OF
BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

February 10, 2011

Via E Mail: erbttestimony@capitol.hawaii.gov
Representative Angus L. K. McKelvey, Chair
Committee on Economic Revitalization & Business
State House of Representatives
Hawaii State Capitol, Conference Room 312
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair McKelvey and Committee Members:

Thank you for the opportunity to testify in opposition to HB 782, relating to the Department of Business, Economic Development and Tourism (“DEBDT”).

Our firm represents the American Council of Life Insurers (“ACLI”), a national trade association, who represents more than three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies account for 90% of the assets and premiums of the United States Life and annuity industry. ACLI member company assets account for 91% of legal reserve company total assets. Two hundred sixty-nine (269) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 95% of the annuity considerations in this State.

HB 782, would impose a \$20 surcharge on every fee imposed by stated departments and commissions to be deposited into a special fund to finance the activities of DBEDT. In the case of the Department of Commerce and Consumer Affairs (“DCCA”) the \$20 surcharge would be imposed on the filing of every application, license, permit or any other matter relating to a business’ (including life insurers’) authority to do business in the State. In the case of an insurer only, the \$20 surcharge would also be imposed on the payment of its tax on insurance premiums. In addition HB 782 would divert \$2M from the Compliance Resolution Fund to provide additional funds to cover the costs of DEBDT’s operation

Section 1 of HB 782, states that the basis for this bill as applied to life insurers and other businesses regulated by DCCA is that the success of DBEDT in fulfilling its statutorily mandated mission benefits their business. Accordingly, imposing a surcharge upon the fees paid by them and diverting \$2M from the CRF to fund DCCA’s operation is appropriate and justified. In addition HB 782 would divert funds in the enable

ACLI respectfully disagrees.

The general objectives, functions and duties of DBEDT is “. . . to make broad policy determinations with respect to the economic development in the State and to stimulate through

research and demonstration projects those industrial and economic development efforts that offer the most immediate promise of expanding the economy of the State.” Section 201-2, HRS.

To fulfill its mission the specific functions, positions, offices or programs established within DBEDT include (but are not limited) the following:

- a. Research and Promotion in the following areas: industrial development, land development, credit development, promotion of present and new industries and investments in the State, tourism research and statistics, establishing and updating self-sufficiency standards and coordinating film permit activities . §201-3, HRS.
- b. Energy planning and conservation. §201-12, HRS.
- c. Renewable energy facilitator whose duties include establishing and administering a permitting process for renewable energy projects. §201-12.5, HRS.
- d. Marine resources and affairs. §201-13, HRS.
- e. Collection of data information. §201-13.8, HRS.
- f. Film permitting processing. §201-14, HRS.
- g. Office of International Affairs. §201-17, HRS.
- h. Research and statistics for growth industries. §201-19, HRS.
- i. Office of Aerospace Development. §201-72, HRS.

ACLI submits that the benefits derived by life insurers from the success of DBEDT’s mission in these areas are at best, tenuous.

The imposition of a \$20 surcharge not only on every fee imposed by DCCA on the filing of every application, license, permit or any other matter relating to a business’(including life insurers’) authority to do business in the State but also on the payment of an insurers tax on insurance premiums is not only unjustified but by singling out only insurers with this additional fee is patently unfair.

Life insurers already pay their fair share of the costs of government.

Life insurers are subject to and pay an insurance premium tax of 2.75% of their gross income derived from premiums received on contracts issued to Hawaii residents. At 2.75%, Hawaii already has one of the highest life insurance premium tax rates in the nation (the national average is 1.9%).

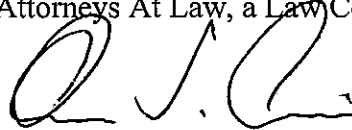
In addition to the fees, premium taxes and other charges imposed under Hawaii’s Insurance Code, life insurers (like other businesses regulated by DCCA) are required to pay a fee into the compliance resolution fund (“CRF”). The stated purpose of the fund is to cover DCCA’s cost of its compliance activities as required under the laws of this State. §26-9(o), HRS.

ACLI must respectfully disagree that the diversion of \$2M from CRF to fund DEBDT operations is in furtherance of the express purpose of the CRF, which is to fund the cost of DCCA's compliance activities.

For the foregoing reasons, ACLI strongly opposes this bill and requests this committee defer passage of this bill.

Again, thank you for this opportunity to testify in opposition to House Bill 782.

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

A handwritten signature in black ink, appearing to read 'O. T. Chikamoto', written over the printed name of the signatory.

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