

SB 1277



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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Thursday, February 24, 2011
9 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL NO. 1277, S.D. 1 – RELATING TO CONSUMER PROTECTION.

TO THE HONORABLE DAVID IGE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, 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 bill is to enhance regulation of legal service plans. The S.D. 1: (1) added a new subsection (e) that requires the plan to notify the Commissioner in writing 60 days prior to the plan being canceled or terminated by the group, plan administrator, or persons furnishing legal services; and (2) made technical changes.

Legal service plans have a low rate of compliance with Hawaii law. The Commissioner continues to receive complaints from consumers about prepaid legal service plans. Prepaid legal service plans are currently regulated by chapter 488. The law was amended in 2010 by Act 47, Session Laws of Hawaii 2010. Further clarification

of that chapter will enhance the commissioner's ability to regulate these plans and to enforce these laws.

Currently, there is no fee charged for the licensing or renewal of prepaid legal service plans. Since there is no renewal process, a plan operator does not inform the commissioner when it has ceased operations. Adding a fee will encourage operators of legal service plans to notify the commissioner of their continued existence and provide certainty as to which plans are legitimately operating in the State.

Section 3(1) of the S.D. 1 added a definition for "commissioner" on page 4, lines 11 to 12. This term, with a substantially similar definition, was added last session by Act 47, Session Laws of Hawaii 2010. The Department suggests that this definition either be deleted or shown as an amended definition.

Section 5 of the S.D. 1 adds a new subsection (e) requiring notice to Commissioner of a plan's intention to cease operations. The plan is operated by the plan administrator who markets the plan to prospective members and hires attorneys who provide legal services to members. Since the Department holds the plan administrator primarily responsible for the plan's operations, the Department suggests that this subsection on page 9, lines 4 to 9, read as follows:

(e) If the plan is canceled or otherwise terminated, the plan administrator shall notify the commissioner and members in writing at least sixty days before the termination of the plan of the fact of plan termination and the provisions made for the disposition of funds accumulated under the plan.

Section 6 of the S.D. 1 in new subsection (d) on page 11, line 17, needs to add the words "[~~such funds,~~]" after the phrase "being lawfully entitled to" and to underscore the phrase "do so," such that line 17 reads:

"being lawfully entitled to [~~such funds,~~] do so, diverts or appropriates fund...."

Section 8 of the S.D. 1 amends HRS § 431:7-101(a) and (b) by adding fees for issuance of a legal service plan certificate of authority. Since Act 59, Session Laws of Hawaii 2010 ("Act 59"), doubled the fees from July 1, 2010 to June 30, 2014, the fees in subsections (a)(19) and (b)(18) and (19) should be reversed such that:

- Page 15, line 17 to 19 reads:

(19) Legal service plan certificate of authority:

Issuance before July 1, 2014 \$1,000

Issuance or after July 1, 2014. \$500

• Page 18, lines 13 to 18 reads:

(18) \$1,000 per year for all services provided before July 1, 2014 (including extension of the certificate) for an authorized legal service plan; and

(19) \$500 per year for all services provided on or after July 1, 2014 (including extension of the certificate) for an authorized legal service plan.

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