



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310

P.O. Box 541

HONOLULU, HAWAII 96809

Phone Number: 586-2850

Fax Number: 586-2856

www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION
& COMMERCE AND JUDICIARY

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Wednesday, March 16, 2011
2 p.m.

**TESTIMONY ON SENATE BILL NO. 1277, S.D. 2 – RELATING TO CONSUMER
PROTECTION.**

TO THE HONORABLE ROBERT HERKES AND GILBERT KEITH-AGARAN, CHAIRS,
AND MEMBERS OF THE JOINT 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.
2: (1) changed the bond and licensing fees to unspecified amounts; (2) changed the
effective date to July 1, 2050; and (3) 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. 2 on page 4, lines 13 to 14, adds a definition for "commissioner". This 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 (adding the words "of the department of commerce and consumer affairs").

Section 5 of the S.D. 2 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 is responsible for the marketing of the plan to consumers and for the hiring of 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 5 to 10, 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. 2 in new subsection (c) on page 10, line 21, contains an unspecified amount for the bond requirement. The Department respectfully requests that the bond amount be specified as \$100,000.

Section 6 of the S.D. 2 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 funds...."

Section 8 of the S.D. 2 amends HRS § 431:7-101(a) and (b) by adding unspecified fees for issuance of a legal service plan certificate of authority. The Department respectfully requests that the fees be specified as follows:

- 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.

Section 10 of the S.D. 2 on page 19, line 5, contains a defective effective date of July 1, 2050. The Department respectfully requests an effective date of July 1, 2011.

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