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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2011

Wednesday, March 30, 2011 – Agenda #6  
3 p.m.

**TESTIMONY ON SENATE BILL NO. 1278, S.D. 1, H.D. 1 – RELATING TO  
INSURANCE.**

TO THE HONORABLE MARCUS OSHIRO, 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 technical amendments.

The purpose of this bill is to adopt model regulations of the National Association  
of Insurance Commissioners (“NAIC”) in compliance with the senior investor protections  
in section 989A of the federal Dodd-Frank Wall Street Reform and Consumer Protection  
Act.

The H.D. 1: does not allow an insurer to delegate supervisory functions in  
Hawaii Revised Statutes (“HRS”) § 431:10D-623(f)(7) and (8), per HRS § 431:10D-  
623(g); made section 7 effective on approval; and made technical amendments.

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act was  
passed to promote financial stability and transparency of the financial system and to  
protect consumers from abusive financial services practices.

The Commissioner continues to receive complaints from consumers, particularly seniors, about sales and marketing practices used by insurance producers with respect to annuity products.

Adopting these NAIC model laws will: (1) enhance protection to consumers, including seniors; and (2) enable the Insurance Division to apply for federal grants that propose activities to protect seniors from misleading or fraudulent marketing in the sale of financial products.

The Department respectfully requests the following technical amendments:

- On page 6, line 11, move "or" to follow the word "surrendered" such that page 6, lines 11-13 reads:

(1) Terminated, lapsed, forfeited, surrendered or partially surrendered, or assigned to the replacing insurer;

- On page 9, line 2, add a comma after "surrender" such that it reads:

exchanges, surrenders, or annuitizes the annuity;

- On page 16, line 17, add the word "from" after "insurer" such that it reads:

paragraph shall prevent an insurer from applying sampling

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

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
COMMENTING ON SB 1278, SD 1, HD 1, RELATING TO INSURANCE

March 16, 2011

Via e mail: [fintestimony@capitol.hawaii.com](mailto:fintestimony@capitol.hawaii.com)

Hon. Representative Marcus R. Oshiro, Chair  
Committee on Finance  
State House of Representatives  
Hawaii State Capitol, Room 308  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Oshiro and Committee Members:

Thank you for the opportunity to comment on SB 1278, SD 1, HD 1, HD 1, relating to Insurance.

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 thirty-nine (239) 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.

ACLI is in accord with the intent and purposes of SB 1278, SD 1, HD 1, which is to provide consumer protection, particularly to seniors, from abusive financial services practices by adopting the National Association of Insurance Commissioners ("NAIC") Suitability in Annuity Transactions Model Regulation ("Model Regulation") and to comply with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

The Model Regulation establishes national uniform standards and rules regulating the sales of annuities to consumers.

Generally, ACLI supports insurance provisions that conform to federal law and national standards.

Section 10 of SB 1278, SD 1, HD 1 (at page 25, lines 14 to 16) makes Sections 2, 5 and 6 effective on January 12, 2012; the provisions of Sections 3 and 4 are made effective upon the Bill's approval.

ACLI recommends that all of the annuity suitability provisions set forth in Sections 2, 3, 4, 5, and 6 take effect January 1, 2012.

While the Bill as currently drafted delays the effective date that an insurer is to comply with its new duties mandated by Section 5 of the Bill, the scope or application of its provisions which is defined in Section 3 of the bill would be effective on the bill's approval. Moreover, an insurer will need time to incorporate the new suitability information it is required to secure described in Section 4 from consumers in its current information gathering systems.

ACLI requests, therefore, that all of the annuity suitability provisions in the bill, including Sections 3 and 4, take effect January 1, 2012.

Again, thank you for the opportunity to comment on SB 1278, SD 1, HD 1.

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House Committee on Finance  
Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice Chair

**Hearing Date: March 16, 2011 – Agenda #6 – 3:00 pm**

**RE: Senate Bill 1278, SD1, HD1 – Relating to Insurance**

Chair Oshiro and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of life and health insurance agents throughout Hawaii, who primarily sell life insurance, annuities, long term care and disability income policies.

**We support the measure.** We generally support model regulation language to ensure uniformity and reciprocity issues throughout the country.

SB 1278, SD1, HD1, (similar to HB 1051 that was heard earlier) has been crafted from NAIC's *Suitability in Annuity Transactions Model Regulation* that was adopted in March 2010. Over the last several years, NAIFA has worked with consumers, the NAIC and other industry representatives to develop these stronger standards which will provide more protections for the consumer buying annuities.

Annuities have been and will continue to be an important planning tool for retirement, and producers, insurers and regulators must be vigilant that these products are appropriate for consumers. It is also imperative that producers who market these important products have a thorough understanding of their features and how they can meet the needs of clients. Consumers should be protected from inappropriate and unsuitable marketing practices.

The major enhancements to the model regulation include insurer responsibility for compliance, review of all annuity transactions, and training requirements for producers/agents.

This bill will require insurance producers/agents to fulfill a one-time training course of 4 continuing education credit hours by 1-31-2012, for those who are already licensed. New producers/agents after 1-31-2012, will be required to fulfill the 4 credit hours prior to selling annuity products.

Mahalo for the opportunity to share our views.

Cynthia Takenaka, Executive Director  
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