

# SB1278

**Measure Title:** RELATING TO INSURANCE.

**Report Title:** Insurance

**Description:** Adopts model regulations of National Association of Insurance Commissioners in conformity with senior investor protections in section 989A of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

**Companion:** HB1051

**Package:** Gov

**Current Referral:** CPN

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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](http://www.hawaii.gov/dcca)

KEALI'I S. LOPEZ  
DIRECTOR

EVERETT KANESHIGE  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE AND  
CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2011

Thursday, February 24, 2011  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 1278 – RELATING TO INSURANCE.**

TO THE HONORABLE ROSALYN BAKER, 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.

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 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.

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, RELATING TO INSURANCE

February 24, 2011

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

Hon. Senator Rosalyn H. Baker, Chair  
Committee on Commerce and Consumer Protection  
State Senate  
Hawaii State Capitol, Room 229  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Baker and Committee Members:

Thank you for the opportunity to comment on SB 1278, 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 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.

However, the definition of an "annuity" which is set forth in paragraph 1 of the proposed addition to Chapter 431: 10D-622, HRS, which is set forth in section 4 of the bill (page 6, at lines 7 through 12) deviates from the definition of an "annuity" as set forth in the Model Regulation.

Section 5 of the Model Regulation defines an "annuity" as follows: "Annuity means an annuity that is an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity".

Secondly, SB 1278 does not include the reciprocity training provision which is set forth in the Model Regulation. That provision states: "The satisfaction of the training requirements of another State that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this State."

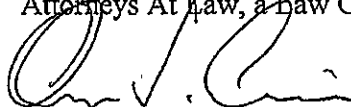
It is important that the Model Regulation be adopted without changes. This will ensure uniform and national regulation of the annuity contract across the country.

Accordingly, ACLI requests that: (1) the definition of an "annuity" as set forth in Section 4 of the Bill (page 6, at lines 7 through 12) be amended to conform to the definition of an "annuity" contained in the Model Regulation; and (2) Section 2 of the Bill (at page 4, lines 1 through 10) be amended by substituting the Model Regulation's reciprocity training provision as paragraph (c) in place of the current provisions in that paragraph (page 4, lines 1 through 10) and that the provisions contained in existing paragraph (c) (page 4, lines 1 through 10) be inserted following the reciprocity training provisions and that it be renamed as a new paragraph (d).

Lastly, Section 10 of SB 1278 (page 26, at line 12) makes its provisions effective upon its approval. ACLI submits that that its member companies will need time to comply with the Bill's provisions. ACLI suggests that the Bill be amended to have an effective date of 6 months following its approval.

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

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



Oren T. Chikamoto  
737 Bishop Street, Suite 2100  
Honolulu, Hawaii 96813  
Telephone: (808) 524-3800  
Facsimile: (808) 523-1714

House Committee on Consumer Protection & Commerce  
Senator Rosalyn Baker, Chair  
Senator Brian Taniguchi, Vice Chair

**Hearing Date: February 24, 2011 – 9:00 am – Room 229**

**RE: Senate Bill 1278 – Relating to Insurance**

Chair Baker, Vice Chair Taniguchi, 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.

SB 1278 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 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.

**We support the measure.** We note that the definition for "annuity" on page 6 of the bill, is not the same definition as in the model regulation.

We ask that the definition be amended to read: "Annuity means an annuity that is an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity."

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Mahalo for allowing us to share our views.

Cynthia Takenaka, Executive Director  
Ph: 394-3451