

Honolulu, Hawaii

MAR 01 2012

RE: S.B. No. 3062  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 3062 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to require viatical settlement providers to be licensed by the Insurance Commissioner and require the Insurance Commissioner to regulate the conduct of this business.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs. Your Committee received comments on this measure from the National Association of Insurance and Financial Advisors Hawaii, and American Council of Life Insurers.

Your Committee finds that a viatical settlement contract is a means for a terminally ill person to receive a cash payment for that person's life insurance policy prior to that person's death. A life settlement contract is similar to a viatical settlement contract but is available without regard to a policyholder's life expectancy.

Your Committee further finds that thirty-nine states currently regulate viatical or life settlements. Act 177, Session Laws of Hawaii 2008, was Hawaii's insurance regulation of viatical and life settlement contracts. Act 177, which was codified upon enactment as chapter 431E, Hawaii Revised Statutes, implemented



the Life Settlements Model Act as adopted by the National Conference on Insurance Legislators. Chapter 431E, Hawaii Revised Statutes, was intended to protect individuals, particularly senior citizens and those suffering from chronic or terminal illness, from fraudulent activity relating to the selling and buying of life insurance policies, but Act 177 sunsetted in 2010.

However, later in 2010, Act 59, Session Laws of Hawaii 2010, was enacted to reestablish life settlement contracts and the appropriate license fees for those contracts. Nevertheless, the fees established in Act 59 were short lived because in 2011, Acts 81 and 186, Session Laws of Hawaii 2011, repealed the provisions for life settlement contracts in section 431:7-101(a) and (b), Hawaii Revised Statutes.

Due to the repeal provisions in Acts 177, 81, and 186, life settlements are currently unregulated in Hawaii. Your Committee concludes that Hawaii consumers and the elderly need effective and comprehensive laws, such as the establishment of chapter 431E in Act 177, to protect against stranger-originated life insurance transactions and other fraudulent life settlement practices.

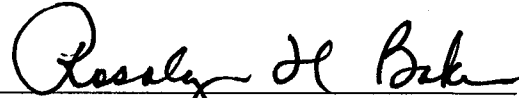
Accordingly, your Committee has amended this measure by:

- (1) Deleting its contents and inserting certain provisions from Act 177, Session Laws of Hawaii 2008, which:
  - (A) Implements the Life Settlements Model Act adopted by the National Conference of Insurance Legislators, which regulates permissible life settlement contracts and prohibits stranger-originated life insurance transactions; and
  - (C) Permits the collection of licensing and regulatory service fees;
- (2) Making permanent the fees for life settlement contract providers and life settlement contract brokers;
- (3) Inserting an effective date of July 1, 2012; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3062, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3062, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce and  
Consumer Protection,




ROSALYN H. BAKER, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:* <b>SB 3062</b>	Committee Referral: <b>CPN</b>	Date: <b>02-22-12</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood				✓
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.				✓
SOLOMON, Malama	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes