



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

P. O. BOX 3614
HONOLULU, HAWAII 96811-3614
335 MERCHANT STREET, 2ND FLOOR
HONOLULU, HAWAII 96813
Phone Number: (808) 586-2790
Fax Number: (808) 586-2806
www.hawaii.gov/dcca/ins

KEALI'I S. LOPEZ
DIRECTOR

GORDON I. ITO
INSURANCE COMMISSIONER

TO THE HOUSE COMMITTEE ON HOUSING

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Wednesday, February 1, 2012
8:45 a.m.

TESTIMONY ON HOUSE BILL NO. 2507 – RELATING TO INSURANCE.

TO THE HONORABLE RIDA T.R. CABANILLA, 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 make it easier for Hawaii homeowners to purchase
homeowners insurance by making premium information available to the public upon
request and by publishing premium information annually.

On January 3, 2012, the Department released homeowners premium
information, which was voluntarily provided by 14 insurers and similar to what is
required by this bill. This information enabled consumers to compare insurance rates
for homeowners, condominium owners, and renters. The Department believes that
requiring all homeowners insurers to provide similar information would help drive down
premiums and keep the marketplace competitive.

Hawaii Revised Statutes ("HRS") § 431:10C-210 currently requires the annual
publication of motor vehicle insurers and motor vehicle insurance premium rates. The

Department believes it would be in the public interest to require the publication of similar information regarding homeowners insurance.

This bill also allows the Commissioner to specify interim rates upon disapproval of insurance rate filings for property and casualty insurance and to require that the aggrieved filer bear the burden of proving the filing meets the ratemaking standards in HRS § 431:14-103(a)(1). Existing law provides for prior approval of insurance rate filings for property and casualty insurance. Authorizing the Commissioner to specify interim rates upon disapproval of rate filings and making the filer bear the burden of proving that the filing meets the ratemaking standards would help to ensure that rates are fair, reasonable, and nondiscriminatory.

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

**HOUSE COMMITTEE ON
HOUSING**

February 1, 2012

House Bill 2507 Relating to Insurance

Chair Cabanilla and members of the House Committee on Housing, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

We offer the following comments on House Bill 2507. We are requesting that language be inserted providing for a hearing before an interim rate is set, which is below an existing rate. We believe due process requires this. Secondly, we request that after an interim rate is set by the Commissioner that an affected insurer be allowed a period of time to challenge the rate before it becomes effective. We believe that due process also requires this process.

Thank you for the opportunity to present this testimony.



Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison Powers
Executive Director

TESTIMONY OF MICHAEL TANOUE

HOUSE COMMITTEE ON HOUSING
Representative Rida T.R. Cabanilla, Chair
Representative Ken Ito, Vice Chair

Wednesday, February 1, 2012
8:45 a.m.

HB 2507

Chair Cabanilla, Vice Chair Ito, and members of the Committee, my name is Michael Tanoue, counsel for Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes Section 3** of HB 2507, which amends Section 431:14-106 regarding disapproval of filings. The bill inserts a new phrase "regulatory basis" into subsection (a) of Section 431:14-106. This phrase is vague and ambiguous, so HIC requests its deletion or clarification.

The bill also inserts a brand new subsection (d) into Section 431:14-106, which essentially allows the Insurance Commissioner to establish rates without appeal. This unilateral power violates the rights of insurers to have a full and fair hearing on their rate filings.

In the summer of 2011, the Insurance Commissioner mandated all insurers re-file their homeowners rates, citing excessive profits. Insurers have complied with the Insurance Commissioner's mandated rate filing. Members of HIC are committed to continuing to work on a more efficient rate approval process with the Insurance Division. To this end,

we have submitted a revision of this bill to the Insurance Commissioner for his consideration and we ask the Committee for additional time to work on an amendment to the bill.

Thank you for the opportunity to testify.



TESTIMONY OF JEFFREY A. SHONKA

HOUSE COMMITTEE ON HOUSING
Representative T.R. Cabanilla, Chair
Representative Ken Ito, Vice Chair

Wednesday, February 1, 2012
8:45 a.m.

HB 2507

Chair Cabanilla, Vice Chair Ito, and members of the committee, my name is Jeff Shonka, and I am the Chief Financial Officer of First Insurance Company of Hawaii, Ltd. I am testifying in opposition to Section 3, subsections (a) and (d) of the proposed bill.

Subsection (a) amends existing law for the disapproval of filings. In the new language, we believe that the basis for disapproval is vague and ambiguous and we request clarification or deletion. The litmus test for all rates is that they "shall not be excessive, inadequate or unfairly discriminatory." The amended language's ambiguity creates the potential for this basic principle of insurance law to be compromised.

Subsection (d) essentially allows the Insurance Commissioner to establish rates on his own, which we believe would introduce significant uncertainty for consumers and insurance companies and could result in fewer choices for consumers and higher premium rates overall.

Perhaps a quick review of recent events will be useful at this point. In the summer of 2011, the Insurance Commissioner mandated that all insurers re-file their homeowners' rates. Our understanding is that the Insurance Commissioner's mandate resulted from his view that excess profits were being earned on the part of homeowners' insurance companies. As required, First Insurance re-filed its rates and recently received approval for these filings from the Insurance Division.

During the course of our rate filing and approval process, it was suggested that the existing process would benefit from a clearer understanding of the Insurance Division's expectations with regard to rate-making methodology. The process may also benefit from a more standardized approach to the filing of rates by insurers. We at First Insurance agree that improving communication between the industry and the Insurance Division would streamline the existing process and reduce costs for everyone. It would also make it unnecessary to empower the Insurance Commissioner to set his own rates,



which would surely discourage insurance companies from writing business in Hawaii and would lead to higher rates for everyone.

Given that First Insurance and the industry are agreeable to working with the Insurance Division to streamline and increase the transparency of the rate-making process, we feel strongly that this legislation is both premature and opposed to the spirit of due process. There is little reason to empower the Insurance Commissioner to establish rates on his own without first allowing collaborative efforts with the insurance industry to take place. Furthermore, the law should preserve the right of stakeholders to provide input.

Not only is the legislation premature and unnecessary, it is also impractical. The imposition of interim rates would almost certainly be followed by a retroactive adjustment. If, for example, interim rates are too low, then consumers subsequently would be billed for the difference. If interim rates are too high, then a refund would eventually need to be processed or the difference carried forward to impact future rates. Either way, consumers would not know at the time of purchase how much their policy will cost if interim rates are imposed. This uncertainty is bad for consumers, businesses and insurers, and may serve to reduce choices for consumers.

Although originally prompted by the belief that homeowners' rates were too high, this bill affects all lines of property and casualty insurance, including all commercial lines, making the bill's scope overly expansive. A review of the latest NAIC data (for 2009) ranking homeowners' insurance costs in the 50 states shows that Hawaii's homeowners premium is #18 from the top, improving from #13 the year before. From a standpoint of policy premiums, Hawaii is the most affordable state when catastrophe exposures such as hurricane are considered. If the premiums in all states were adjusted for factors such as high home values and the cost of living in general, Hawaii's rank would be far better than #18 from the top and would likely be among the most affordable overall. Frankly, no data has been put forth to suggest that the needs of Hawaii consumers are not being met in the area of policy premium levels or terms.

With this testimony, First Insurance is requesting that Section 3 of the Bill, subsection (a) be revised or deleted, and that subsection (d) be deleted. We feel strongly that the insurance industry and the Insurance Division should devote more time to developing a standardized and transparent rate-filing and approval process that will ultimately better meet the needs of consumers and other stakeholders. We at First Insurance are committed to such a process.

Thank you for allowing my testimony.

TESTIMONY OF MICHAEL ONOFRIETTI, ACAS, MAAA, CPCU

HOUSE COMMITTEE ON HOUSING
Representative Rida T. R. Cabanilla, Chair
Representative Ken Ito, Vice Chair

Wednesday, February 1, 2012
8:45 a.m.

HB 2507

Chair Cabanilla, Vice Chair Ito and members of the committee, my name is Michael Onofrietti, ACAS, MAAA, CPCU, and I am the Vice President of Actuarial Services for Island Insurance Companies.

Island is the last remaining local property/casualty insurer in Hawaii. Our roots extend back to 1939 when local entrepreneur Masayuki Tokioka found that mortgages were unavailable to many in the local Asian community. Since that time we have continued to serve Hawaii residents and business owners. The revenue we earn pays our local employees, stays in Hawaii, and funds many local non-profits and their activities which work to make our community better.

Legislation such as HB 2507 can be used to artificially suppress prices, which leads to restrictions in consumer choice. One could argue that consumer's benefit with artificially lower prices, but at best only in the short run. Insufficient pricing can result in large national or multi-national insurers moving their capital elsewhere, limiting availability and causing rates to inevitably rise. This has occurred on the mainland in various lines of business. One only needs to look at Hawaii's recent history to see that this occurred, and had a very adverse impact on consumers and businesses.

In the late 1980's and early 1990's, Hawaii had a personal auto insurance crisis. Prices were the second highest in the nation due to unencumbered medical/alternative medical treatment and out of control litigation. Consumers would call agents or insurers with money in hand to buy insurance and were told that the next available appointment was weeks or even months away. Auto insurance was often a front page headline in both of our local newspapers. Only after significant systemic reforms effective in 1993 and 1998 was there a reduction in premiums, an increase in the number of insurers, enhanced coverage availability and a reduction in uninsured vehicles on our roads.

Hurricane Iniki devastated Kauai on September 11, 1992. In its aftermath, one local insurer, Hawaiian Insurance & Guaranty, went into receivership. Pacific Insurance, a subsidiary of the Hartford Insurance Group, withdrew from the state entirely for all lines of business. Most others stopped insuring against losses caused by hurricane for both businesses and residences because they could not buy affordable reinsurance to protect themselves and their customers in the event of another catastrophic event. The enactment of the Hawaii Hurricane Relief Fund stabilized the market until reinsurers again made affordable coverage available to Hawaii insurers. Hawaii's Homeowners insurance premiums rank 18th in the United States according to the most recent NAIC data, the lowest among catastrophe-exposed states.

For the record, Island continued to insure against loss caused by hurricane for our existing customers after Iniki until the HHRF was established.

In the early 1990's we also had a crisis in Workers' Compensation. We had artificially low rates which resulted in an inordinate number of businesses being placed into the state's assigned risk plan. Insurers were assessed to pay for shortfalls in this program, and these costs were passed on to businesses via policy surcharges. As a result, many local businesses faced unaffordable premiums and a number of large insurers chose to abandon Workers' Compensation in Hawaii. The implementation of a medical fee schedule in 1995, the authorization of HEMIC as an insurer and the elimination of the assigned risk pool stabilized the market.

The common thread throughout these crises was that availability was enhanced and prices stabilized or dropped after sound cost controls and risk mitigation tools were established. Insurers worked cooperatively with Legislators, regulators and others in all of these instances. Today we have a healthy property/casualty insurance marketplace where consumers are free to choose their agent or company, can price shop online or on the phone and can conveniently purchase coverage to protect their homes, cars or businesses. To that extent we are not sure why this legislation is necessary.

With regard to the technical components of the bill, we would ask two questions. First, does the State wish to take on the liabilities associated with setting rates? These include the adverse results of insurer insolvency, threat of insolvency, or exit from the market. Second, can the State afford to hire the staffing or external support needed to engage in this additional oversight? While the Insurance division is specially funded, higher assessments will at some point result in higher insurance premiums.

One other caveat is that the bill as drafted applies to all lines of insurance. Most large national and multi-national insurers have non-admitted companies, which are not governed by Hawaii's insurance laws. In our current healthy marketplace non-admitted

insurers often write only high-hazard businesses or other unusual risks. Island believes that the threat of forced rates could result in many insurers shifting their business to non-admitted companies giving them total freedom from State regulatory oversight.

We do however believe the process of filing and receiving approval for rates can be improved. Insurers need open and clear communication from the commissioner to be responsive to concerns. The commissioner and his rate and policy analysis staff need the same from insurers in return. Island believes that greater transparency in rate filings can enhance the competitive environment. As always, we are willing to work with the Insurance Division to this end both on our own and in conjunction with Hawaii Insurers Council.

In conclusion, Island has been a responsible part of the insurance industry and the community since our founding. We serve on every insurance industry board and task force, have held or currently hold leadership roles in these organizations and in other community organizations and continue to be committed to making Hawaii a better place. We believe that HB 2507 as drafted may increase costs as well as liabilities for the State and could shift coverage into the unregulated non-admitted insurance market ultimately increasing costs for both consumers and businesses. We respectfully request that these concerns be considered by the Legislature in its deliberations, and that this measure be held.

Thank you for the opportunity to testify.

Testimony of
American Insurance Association
1015 K Street, Suite 200
Sacramento, California 95814 - 3803

TO: Representative Rida Cabanilla
Chair, Committee on Housing
HSGtestimony@Capitol.hawaii.gov

DATE: January 31, 2012

RE: **H.B. No. 2507 – Relating to Insurance**
Hearing Date: Wednesday, February 1, 2012 at 8:45 a.m.
Conference Room 305

The American Insurance Association (AIA) respectfully opposes H.B. 2507, Relating to Insurance.

AIA is the leading property-casualty insurance trade organization, representing approximately 300 insurers that write more than \$100 billion in premiums each year. AIA member companies offer all types of property-casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

AIA opposes the provisions in H.B. 2507 that require publication of homeowner insurance premiums and that permit the Insurance Commissioner to specify interim insurance rates after disapproval of a rate filing.

Section 1 of H.B. 2507 requires the Insurance Commissioner to publish annually year notice of the availability of a list of homeowners insurers, with representative annual premiums. We believe this provision will result in the dissemination of inaccurate and inadequate data. Factors such as property location, age, type of construction and materials, history, and experience, among other things, are essential to accurate pricing for coverage. In the absence of this information, it is impossible for the Commissioner to put forth sufficient information, and this will lead to consumer confusion.

Section 3 of the bill, proposes to amend Section 431:14-106 of the Hawaii Revised Statutes, to add a new subparagraph (d) authorizing the Insurance Commissioner to establish interim insurance rates after disapproval of a rate filing. Temporary, interim rates would be costly and impractical for carriers to comply with. Such rates would require system changes to implement, and later change yet again if needed, and would impose further burdens with respect to the collection or refund of amounts to

customers. Further, insurers should not be subject to having rates imposed upon them unilaterally.

For the foregoing reasons, AIA must respectfully oppose H.B. 2507.

Steven Suchil
Assistant Vice President/Counsel
State Affairs
Western Region



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

1415 L Street, Suite 670, Sacramento, CA 95814 Telephone 916-449-1370 Facsimile 916-449-1378 www.pciaa.net

To: The Honorable Rida Cabanilla, Chair
House Committee on Housing

From: Mark Sektnan, Vice President

Re: **HB 2507- Relating to Insurance**
PCI Position: Oppose

Date: Wednesday, February 1, 2012
8:45 a.m.; Conference Room 325

Aloha Chair Cabanilla and Committee Members,

The Property Casualty Insurers Association of American (PCI) is opposed to HB 2507 which allows the Insurance Commissioner to specify interim rates upon disapproval of insurance rate filings for property and casualty insurance. PCI is a trade association consisting of more than 1,000 insurers of all sizes and types. Its members represent 38.3 percent of the total general business insurance and 31.6 percent of the total homeowners business in the nation. In Hawaii, PCI members represent 15.2 percent of the homeowners market.

Under this proposal, Hawaii would be the first state in the nation to have both a prior approval system which allows the Commissioner to approve rates and the authority to set interim rates upon the Commissioner's disapproval of a rate filing. Hawaii has a prior approval system under which companies must submit their rates, and have the rates approved, prior to using the rates in the marketplace. Two states, Iowa and Indiana which give their commissioner the power to set interim rates have a "file and use" system. Under this type of system, the insurer must file their rates with the Commissioner no later than their proposed effective date; they may then begin to use the filed rates in the marketplace. The Commissioner's review, if any, happens after the rates are in use in the marketplace. If rates are disapproved, they are done so after they have been in effect; hence it is less likely that interim rates will be set.

HB 2507 would establish a rate review process that is unnecessary since the Commissioner currently has the authority to disapprove a rate before it takes effect. Two states, Iowa and Indiana, currently allow their Commissioners authority to establish an interim rate but it is under a 'file and use' rating law, where insurers can use filed rates without waiting for Department of Insurance approval. The benefit to the file and use law, of course is that rate changes, in a competitive market, can be more quickly delivered to consumers.

It has been suggested that HB 2507 grants the Commissioner in Hawaii powers similar to those given the Commissioner in Florida. As the attached analysis of the Florida law shows, the regulatory environment in Florida is much different and in fact Florida does not have a law allowing for the establishment of "interim" rates. It should also be pointed out that the Florida homeowners' insurance market is generally rated one of the worst insurance markets in the nation in terms of affordability and availability of residential property coverage.

In Hawaii, rates must currently be approved by the Commissioner before they take effect prior to an insurer being able to use the rate and in 2011 residential property insurers responded to a call from the Commissioner to update their filed Homeowners rates. Since the authority of the Commissioner, granted by the Legislature, currently allows greater scrutiny and oversight than most other states, including those few states that allow an interim rate to be imposed, we view the provisions of HB 2507 as unnecessary. The Hawaii Insurance Commissioner already enjoys regulatory powers far in excess of those in states which allow the determination of an interim rate. Since the Commissioner must approve rates before they are used now, we feel that this additional authority is unnecessary.

For these reasons, PCI asks the committee to hold this bill in committee.