



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance
1415 L Street, Suite 670, Sacramento, CA 95814-3972

To: The Honorable Senator Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection

From: Mark Sektnan, Vice President

Re: **HB 994 HD1 – Relating to Motor Vehicle Insurance**
PCI Position: Concerns

Date: Friday, March 30, 2012
9:30 a.m., Conference Room 229

Aloha Chair Baker and Members of the Committee:

The Property Casualty Insurers Association of American (PCI) has concerns about HB 994 HD1, which would exclude benefits paid or incurred under the workers' compensation law from the covered loss deductible. As you may recall, this provision was a key component of the auto insurance reform efforts in the mid – 1990s.

As you know, the covered loss deductible works in concert with other statutes and this has created some confusion. In the context of subrogation this includes HRS § 386-8, and §431:10C-305, and that the interplay between the statutes is open to different interpretations.

PCI is seeking clarification of the following questions:

1. Would the judgment, settlement, or award be reduced by \$5,000 if only worker's compensation benefits are paid?
2. Would the judgment, settlement, or award be reduced by \$5,000 if only public assistance benefits are paid?
3. If not, then why would an injured party that has public assistance benefits or worker's compensation benefits be treated differently than an injured party that has personal injury protection benefits? This would appear to be against public policy and would increase settlements unjustly, not to mention potentially encourage treatment beyond the threshold of \$5,000.00.
4. Under HRS 431:10C-305(b) (2) Personal Injury Protection benefits are paid secondarily to workman's compensation benefits. Is the bill consistent with the existing law?

We also believe that the language of the current §431:10C-301.5 may be open to interpretation and it should be made clear that the final sentence of the section does not exempt any BI recovery from application of the covered loss deductible.

Thank you for your consideration of our questions and we appreciate the opportunity to clarify the intent of the bill.

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