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**SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION**

February 22, 2012

Senate Bill 2009 Relating to Insurance

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm opposes Senate Bill 2009 Relating to Insurance. We believe that the measure will have an adverse impact on the availability of insurance. We do not always get all the information we need from our customers to make a proper underwriting decision within the current 60 days. In those situations, we are faced with a decision to cancel the policy or remain on the risk without a full underwriting review. At 30 days, we would have to be more aggressive in getting off the risk much sooner. This will be very disruptive to our customers, their lenders, and the market in general.

Thank you for the opportunity to present this testimony.

February 21, 2012

Hawaii State Legislature  
Legislature's  
Senate Committee on Commerce & Consumer Protection  
service  
Honolulu, Hawaii 96813

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**RE: NAMIC's Letter of Opposition to SB 2009, Homeowners Insurance Claims History**

Dear Senator Rosalyn H. Baker, Chair; Senator Brian T. Taniguchi, Vice Chair; and members of the Senate Committee on Commerce and Consumer Protection:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony in opposition to SB 2009, Homeowners Insurance Claims History.

NAMIC is a full-service national trade association with more than 1,400 member companies that underwrite approximately 43 percent (\$196 billion) of the property & casualty insurance premium in the United States. NAMIC membership includes four of the seven largest property & casualty insurance carriers in the nation, and every size regional, national and state specific property & casualty insurer, including hundreds of farm mutual insurance companies. NAMIC has 59 member insurance carriers doing business in the state of Hawaii, who write approximately 27% of the property/casualty insurance business in the state.

On behalf of NAMIC's members, I respectfully request that you VOTE NO on SB 2009, because the bill is inconsistent with the very concept of insurance (contractual sharing of risk of loss exposure), and would hinder insurers in their ability to provide consumers with homeowner's insurance rates that fairly and accurately reflect the consumer's personal risk of loss exposure. NAMIC's members are also concerned that proposed legislation is unnecessary in Hawaii's competitive homeowner's insurance marketplace and is an unreasonable interference with the contractual rights of the parties to the insurance agreement.

NAMIC's members appreciate the fact that SB 2009, at first blush, may appear to be reasonable and in the best interest of insurance consumers. However, in life, the surface appearance of something is often misleading. Therefore, NAMIC respectfully requests that this committee consider the inescapable implications and unintended consequences of the proposed legislation.

Insurance companies have a legal and contractual duty to provide insurance consumers with homeowner's insurance rates that are commensurate with the consumer's personal risk of loss exposure. Consequently, insurance carriers *need to consider* past claims history to properly rate and underwrite the homeowner's insurance policy. Limiting an insurer's ability to consider *all relevant claims history* that is illustrative of the consumer's personal risk management activities and insurance claims exposure will hinder insurers in their efforts to thoroughly and accurately match insurance risks to insurance rates.

The unintended consequences of the proposed legislation's restrictions on the use of homeowner's insurance claims history are: 1) SB 2009 will allow "high risk of loss exposure" insurance consumers to hide pertinent and informative claims history that should be considered in the rating and underwriting process, so that an insurer may be able to correctly match risk to rate; and 2) The proposed legislation could force "low risk of loss exposure" insurance consumers to have to subsidize the rates of "high risk of loss exposure" consumers, thereby preventing consumers who have engaged in sound risk management practices from being properly rewarded, via lower insurance rates, for their efforts.

NAMIC is also concerned that the bill is a "solution in search of a problem." The homeowner's insurance marketplace is robust and competitive in Hawaii, so consumers have lots of insurance options. If a consumer doesn't like how a particular insurance carrier uses the person's claims history in their underwriting and rating process, the consumer can go to another insurer who will likely have a different approach to using claims history. The current law allows for broad-based market competition between carriers as to how they evaluate and utilize claims history. This open competition works to the benefit of the insurance consumer who is afforded a wealth of insurance price-points to consider when making an insurance selection.

SB 2009 which appears to be modeled after the National Conference of Insurance Legislators' (NCOIL) "Model Act Regarding the Use of Insurance Claims History Information" *has not been adopted by any state* in the six-plus years of its existence, even though the NCOIL Model Act was considered by a number of state legislatures when it was first adopted. Passage of SB 2009 would make Hawaii an outlier in this area of homeowner's insurance underwriting and rating, and could make the state a less attractive marketplace for insurers' who may want to consider selling homeowner's insurance in Hawaii.

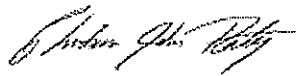
Additionally, NAMIC is concerned that SB 2009 goes far beyond the scope of the NCOIL Model Act in that the NCOIL Model uses the language, "*deny, cancel, or non-renew . . .*", whereas, the proposed legislation uses the language, "*refuse to issue, refuse to renew, or cancel . . .*" (Emphasis added). The "refuse to issue" language is troubling, because it would apply the claims history limitations in the bill to the *initial* insurance application decision-making process.

An insurance company, just like any other private business in the state, should have the right to decide for itself what risks of loss exposure it is willing to accept as part of its business endeavor. SB 2009 is inconsistent with basic notions of freedom of contract and would place insurance companies in a "contractual rights" position that is less favorable than other businesses in the state. This differentiated treatment in contract rights between business industries is unjustifiable and unfair.

Finally, NAMIC is also concerned that some of the underwriting/rating and disclosure provisions in SB 2009 will act as unnecessary insurance rate cost-drivers that could adversely impact affordability of insurance for consumers.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you have any questions about NAMIC's Letter of Opposition to SB 2009.

Respectfully,



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