

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 2309, S.D. 1, RELATING TO LONG-TERM CARE.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Thursday, February 23, 2012 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 211

WRITTEN COMMENTS ONLY. For more information contact
Lili A. Young, Deputy Attorney General at 587-3050.

Chair Ige and Members of the Committee:

The Department of the Attorney General has the following comments.

This bill seeks to establish the Long-term Care Partnership Program (the “Program”) by adding a new chapter to the Hawaii Revised Statutes. Through the Program, individuals are encouraged to purchase long-term care insurance in order to reduce future Medicaid costs for long-term care. As an incentive under the Program, the individual’s assets, in an amount equal to the amount of benefits paid under a qualified long-term care insurance policy, would be disregarded when applying for Medicaid assistance.

The proposed statutory wording contained in section 1 of the bill on page 3, lines 3-9, is confusing. It provides that “[t]he department shall establish a long-term care partnership program that enables an individual who has assets that would otherwise disqualify the individual from receiving medicaid benefits **to continue receiving** medicaid benefits” (emphasis added). An individual who was initially disqualified from receiving Medicaid benefits would not be able to “continue receiving” the benefits. We

suggest changing the phrase “to continue receiving” to “to receive” to eliminate confusion.

Further, in section 1 of the bill on page 3, lines 16-22, the proposed statutory wording provides: “Notwithstanding any other law to the contrary, an individual who purchases a certified long-term care insurance partnership policy and has assets above the eligibility levels for receipt of medicaid benefits shall be eligible to receive medicaid benefits and any other long-term care services specified by the department without regard to the individual’s assets.” This provision should be clarified. As written, it appears to allow an individual to be eligible for Medicaid benefits by disregarding **all** of an individual’s assets. This provision would be rendered ineffective as federal law preempts it. For coverage under the federal Medicaid program, 42 United States Code section 1396p(b)(1)(C)(iii) provides restrictively that “any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a long-term care insurance policy” will be disregarded if certain requirements are met. Thus, only the value of a person’s assets that is equal to the long-term benefit payments the person receives would be disregarded for purposes of eligibility.

On the other hand, if it is the intent of the Program to ensure that **all** assets of an individual who purchases long-term care insurance are to be disregarded so the person may be eligible to receive long-term care supported by the State, this wording would require that the benefits be paid with State funds only. This would make it difficult to refer to this, however, as a partnership program.

We respectfully ask that, if the Committee passes this bill, amendments be made to address these concerns.

To: the Hawai'i Senate Ways and Means Committee

Re: SB 2309 SD 1

Aloha Chair, Vice-Chair, and members of the committee.

My name is Scott Wall and on behalf of United Self Help we are in strong support of this bill. The federal government has predicted that twenty million baby boomers are going to become Alzheimer's patients over the next twenty years. Our country and our state are woefully unprepared to deal with that eventuality.

Some of the members of this committee have probably had to deal with some aspect of this in their own families already. I beg that you share that information with the others seated here with you.

The drastic need for long term care we are facing will be devastating. It is not only the need for skilled nursing care and proper housing. Just the simple drain on a family from watching over their loved ones can destroy a family, a marriage, and a home.

There are ways to deal with these eventualities with proper financial foresight but even those require that a family have extra money to put aside. In times like these those families come few and far between.

Likewise a family can become destitute and then rely on the state to care for their loved one. There are far too many families in our state though that could not stand the shame of having to go to the state for help. That might preserve their honor but it would not yield the best possible medical care for their ill loved one.

It's a tough decision and one way or another we are all going to have to deal with it together. We applaud the authors of this bill for bringing it to the states decision while choices are still available to be made.

Mahalo,

Robert Scott Wall for United Self Help

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TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON SENATE BILL 2309, SD 1, RELATING TO LONG TERM CARE

February 23, 2012

Via e mail: wamtestimony@capitol.hawaii.gov

Hon. Senator David Y. Ige, Chair
Committee on Ways and Means
State Senate
Hawaii State Capitol, Room 211
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Ige and Committee Members:

Thank you for the opportunity to testify in support of SB 2309, SD 1, relating to Long Term Care.

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-five (235) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 92% of the annuity considerations in this State.

In 2007 the legislature passed Act 233 which enabled the State of Hawaii to establish the Public Private Long Term Care Partnership Program enacted by Congress in 2006 as part of the Deficit Reduction Act (DRA).

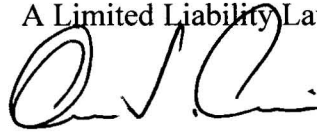
ACLI generally believes that as a matter of policy the State of Hawaii should encourage families to provide for their own financial well-being. If a family is unable to support its long-term care needs, the State will need to spend its scarce resources for that purpose.

The partnership program allows people to preserve some of their assets and still qualify for Medicaid by purchasing a “partnership” long term care policy or exchanging an existing policy for a partnership policy.

The purpose and intent of SB 2309, SD 1 is to implement the partnership program authorized by Act 233. It allows individuals to qualify for Medicaid coverage for continued long term care prior to exhausting their assets.

Again, thank you for the opportunity to testify in support of SB 2309, SD 1, relating to Long Term Care.

LAW OFFICES OF
OREN T. CHIKAMOTO
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A handwritten signature in black ink, appearing to read "Oren T. Chikamoto". The signature is stylized with a large initial "O" and a long horizontal stroke.

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