

**SB 2655**

**EDT-CPN**



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TO THE SENATE COMMITTEES ON  
ECONOMIC DEVELOPMENT AND TECHNOLOGY AND  
COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012

Tuesday, February 14, 2012  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2655 – RELATING TO PORTABLE  
ELECTONICS INSURANCE.**

TO THE HONORABLE CAROL FUKUNAGA AND ROSALYN H. BAKER, CHAIRS,  
AND MEMBERS OF THE COMMITTEES:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department takes no position on this bill which proposes to adopt a new article for insurance relating to portable electronics, but offers these comments.

If adopted this would present the consumer with an alternative to the Service Contract Provider authorized by Chapter 481X, HRS. Presently, Service Contract Providers offer similar types of indemnity protections in conjunction with the service contracts/extended warranties. We understand this bill would not prevent the continued marketing of the Service Contract Providers' current products.

Second, the proposed § 431: -106 on page 9 appears to favor the insurer over the consumer. The section could be interpreted to allow the insurer to unilaterally modify the insurance contract to the detriment of the consumer. Adequate protections for the consumers should be considered.

**S. B. No. 2655**  
**DCCA Testimony of Gordon I. Ito**  
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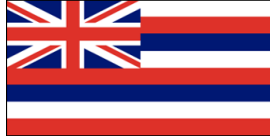
Third, we recommend that the licensing fees be comparable to a similar type of license. The limited lines motor vehicle rental company producer's license ("MV Rental Producer") pays \$2,000 for issuance of the license and \$1,200 per year for the services of the department. HRS § 431:7-101.

The MV Rental Producer is similar to the portable electronics licensee in that the authority of the entities' licenses is extended to multiple locations and sales personnel. The bill currently proposes substantially lower fees for the portable electronics licensee. – the maximum \$1,000 for first year and \$500 per year thereafter and no less than the minimum of \$100 per year. See, page 13 lines 15 to 20.

Fourth, the bill assumes that the master policy is issued by an insurer that is admitted in this State. If the insurer is unauthorized, this bill should be amended to require the portable electronic limited line licensee to comply with Article 8, Chapter 431, HRS relating to Surplus lines and Unauthorized Insurance.

Finally, we suggest technical changes to make the terms in the bill consistent with current law. The word "commissioner" should be substituted for the word "director" at age 3 lines 12 and 14. The term "licensed agent" on page 13 line 22 appears to have no definition in this bill.

We thank the Committee for the opportunity to present testimony on this matter.



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February 14, 2012

Senator Carol Fukunaga, Chair  
Senator Rosalyn Baker, Chair  
Committee on Economic Development & Technology  
Committee on Commerce & Consumer Protection  
Hawaii State Capitol, Room 229  
Honolulu, HI 96813

**RE: IN SUPPORT OF SB2655**

Dear Chairs Fukunaga and Baker, and Members of the Committee:

Thank you for the opportunity to comment on Senate Bill 2655. My name is John Radcliffe and I am representing Asurion in support of SB2655.

Asurion is the leading provider of handset protection programs in the country and has joined forces with leading wireless carriers throughout the world to bring this product to consumers. The product that is at the heart of this bill is an insurance program that protects a consumer's investment in their wireless communications device by insuring it against loss, theft, damage, and internal malfunction of the device.

The bill provides for an entity level license to vendors offering portable electronics insurance and provides for key consumer protections related to such coverage.

As wireless devices have become an integral part of our everyday lives, their functionalities have expanded exponentially, and with these developments the costs of these devices have also risen. Portable electronics insurance not only ensures that a consumer's investment in such a device is protected, but also ensures that a consumer has very little down time when a problem does occur by getting a pre-programmed phone or other portable electronics device in the consumer's hands, often times the very next day after a claim has been made. Staying connected in today's world is crucial and Asurion's products ensure that its customers stay connected. SB2655 creates a licensing framework applicable to the sale of portable

electronics insurance in the State of Hawai'i. Currently, there is no statutory regulatory structure that exists for the sale of this insurance product in Hawai'i.

This legislation would provide such a structure and also provide for an entity level limited lines producer license to sell this type of insurance product. The approach set forth in this piece of legislation ensures a balanced regulatory structure that would avoid the need to license every individual on the floor of every retailer in Hawai'i that offers this insurance to consumers, while also providing important consumer protection and meaningful disclosures.

This model is consistent with the national trend that we have seen with respect to the regulation of this product as it creates an efficient and fair licensing framework for the entities offering this product to consumers, and gives regulators the authority they need to effectively oversee these activities. Laws like SB2655 have already been enacted into law in 24 states, with bills pending in the remaining 26 states this year.

In addition to the licensing framework created by SB2655, the bill also provides significant consumer protection measures in the form of required disclosures to consumers regarding the insurance coverage that is being sold, as well as required training for those individual salespeople acting under the retailer's license. Asurion and local counsel have worked through the language in SB2655 with the Insurance Division of the Department of Commerce and Consumer Affairs and we are in substantive agreement with the bill's language.

In summary, SB2655 is a good bill, not only for Hawai'i retailers, but also for Hawai'i consumers, in that the bill creates a regulatory structure for this product that ensures full disclosure to the consumer of the terms and conditions of this insurance coverage, while also providing the Insurance Division with the regulatory authority to ensure that the product is sold to Hawai'i consumers in the right way.

The bill strikes an effective balance between the interests of consumers and industry, and we urge that you vote favorably to advance SB2655 for further consideration.

Sincerely,

John H. Radcliffe

Attachment: "Portable Electronics Legislation Summary"

**Portable Electronics Legislation Summary (2012)**  
**Attachment to Capitol Consultants of Hawaii's Testimony on HB2359**

- Provides for appropriate regulatory oversight specifically tailored to insurance protection for consumer portable electronics.
- Provides strong but workable consumer protections including:
  - Key Product Disclosures
  - Key Product Requirements
  - Sales Personnel Training
- Limited license for vendor (wireless carrier) rather than individual sales personnel licensing
- Flexible definition of portable electronics for rapidly evolving market to include devices such as wireless phones, smartphones, netbooks, and tablet PCs.
- Consistent with existing regulation in many states including New York, Texas, Washington, others.
- Maintains meaningful regulatory authority without significant costs to regulators or industry