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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Monday, March 12, 2012
2:10 p.m.

**TESTIMONY ON SENATE BILL NO. 2765, S.D. 2 – RELATING TO CAPTIVE
INSURANCE COMPANIES.**

TO THE HONORABLE ROBERT HERKES, 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 with a requested amendment.

The purpose of this bill is to maintain Hawaii's position as a major captive
insurance domicile by updating and streamlining the captive insurance company law
found in article 19, chapter 431, Hawaii Revised Statutes ("HRS") ("Captive Law"), and
ensuring that risk retention captive insurance companies comply with the accreditation
standards of the National Association of Insurance Commissioners ("NAIC").

Besides making numerous housekeeping amendments to the Captive Law, this
bill also:

1. Provides greater flexibility for pure captive insurance companies to insure
or reinsure the risks of controlled unaffiliated business;

2. Provides greater flexibility for association captive insurance companies to insure the risks of its association and a member organization's affiliated entities;
3. Clarifies that a captive insurance company writing direct workers' compensation insurance policies pursuant to chapter 386, (Workers' Compensation), HRS, may be subject to article 15, chapter 431 (Insurers Supervision, Rehabilitation, and Liquidation), if the captive insurance company is deemed insolvent;
4. Clarifies that the Commissioner or any authorized examiner is authorized to conduct financial surveillance of captive insurance companies; and
5. Allows the Commissioner to impose fines on captive insurance companies of not less than \$100 nor more than \$10,000 per violation and specifies notice requirements when the Commissioner suspends or revokes a certificate of authority or imposes a fine.

The Department and HCIC have reached an understanding and fully support this measure in its present form, with the exception of its defective effective date.

The Department respectfully requests an amendment to restore bill's effective date to July 1, 2012.

We thank this Committee for the opportunity to present testimony and request your favorable consideration.



TESTIMONY ON SB. 2765, SD2
RELATING TO CAPTIVE INSURANCE COMPANIES

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair

Monday, March 12, 2012, 2:10 p.m.
State Capitol, Conference Room 325

Chair Herkes, Vice Chair Yamane, and Members of the Committee:

My name is Craig Watanabe, and I am the Regional Manager of Strategic Risk Solutions, Inc., an independent captive insurance management company with operations in Hawaii and other major captive jurisdictions in the U.S, and abroad.

I respectfully submit this testimony in support of the *intent* of this Administration proposed measure, which is to maintain Hawaii's position as a major captive insurance domicile by updating and streamlining our captive insurance company law.

Upon review of the proposed measure we recommend the two amendments to provide consistency and make it easier for users to locate and understand the captive related statutes.

Proposed Amendment 1:

- In SECTION 9, on page 25, line 8: The phrase "State or country" be replaced with the word "Jurisdiction". This would make it consistent with the use of the term "Jurisdiction" in SECTION 8, on page 20, lines 10 and 20. The term "Jurisdiction" is an appropriate term to use because it would encompass *all* captive domiciles, including territories and other legal/political authorities (in addition to States and Countries).

Proposed Amendment 2:

- In SECTION 1, on page 1, lines 13 through 18: The new proposed section to part I of article 19 called, "**§431:19-B Applicability of other laws to captive insurance companies writing direct workers' compensation insurance policies**" be included with the proposed changes that are being made in SECTION 19, page 40 to "**§431:19-115 Laws Applicable**" - perhaps inserted between lines 18 and 19 on page 41. This would make it easier for users to identify laws outside of the captive laws (article 19) which would apply to captives.

Since the enactment of Hawaii's captive insurance statutes in 1986, the captive insurance industry has evolved into one of the top jurisdictions in the world for this special kind of business, as well as, directly contributed to our local economy and intellectual capital. It has enabled over 200 companies and

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organizations from the U.S., Japan, and other countries to efficiently implement and maintain a captive insurance program through new Hawaii corporations. In addition to notable Fortune 500 companies and non-profit and governmental owners, there are several prominent local Hawaii corporations and organizations that have successfully utilized Hawaii captives to efficiently manage their exposure to risks. The University of Hawaii at Manoa has also embarked on the development of an insurance and risk management program within the Shidler College of Business.

The success of Hawaii's captive insurance industry has been, and will continue to be dependent upon the consistent commitment and collaborative efforts of its Lawmakers, Administration and private sector constituencies. We appreciate the opportunity to provide this testimony and look forward to your continued support of this important industry for Hawaii.

Respectfully Submitted,

