

# SB 2768

Measure Title: RELATING TO INSURANCE.

Report Title: Insurance; Licensing Requirements

Description: Eliminates underlying producer license requirement for applying and obtaining surplus lines broker license; provides greater clarity and consistency in licensing insurance producers selling annuity products; clarifies reinsurance intermediary licensing requirements and removes unnecessary licensing conditions.

Companion: HB2506

Package: Gov

Current Referral: CPN, WAM

Introducer(s): TSUTSUI (BR)

<b>Sort by Date</b>		<b>Status Text</b>
1/25/2012	S	Introduced.
1/25/2012	S	Passed First Reading.
1/25/2012	S	Referred to CPN, WAM.
1/27/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-02-12 9:00AM in conference room 229.



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR

STATE OF HAWAII  
INSURANCE DIVISION  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ  
DIRECTOR

GORDON ITO  
INSURANCE COMMISSIONER

TO THE SENATE COMMITTEE ON COMMERCE AND  
CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012

Thursday, February 2, 2012  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2768 – RELATING TO INSURANCE.**

TO THE HONORABLE ROSALYN H. BAKER, 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.

This bill addresses four different areas: A) surplus lines broker licenses; B)  
reinsurance intermediaries; C) annuity training; and D) enforcement authority.

A. Surplus Lines Broker License

The purpose of sections 1 and 3 through 9, is to amend Part III of Article 8 of the  
Insurance Code, Hawaii Revised Statutes ("HRS"), chapter 431 ("Insurance Code"), to  
allow for a stand alone surplus lines broker license. Currently, an applicant for a surplus  
lines broker license must obtain a producer license in accordance with Article 9A of the  
Insurance Code as a prerequisite to applying for a surplus lines broker license.

The National Association of Insurance Commissioners ("NAIC") has requested that  
all states issue stand-alone surplus lines broker licenses.

Proposed amendments to Part III of Article 8 are modeled after the producer license requirements in Article 9A of the Insurance Code, including a new subsection for issuance of non-resident licenses without taking the Hawaii examination or meeting continuing education requirements to maintain licensure provided certain requirements are met. Requirements for producers applying for a surplus lines broker license remain unchanged.

The remaining changes are mainly technical in nature to conform requirements and standards for a surplus lines broker in Part III of Article 8 with the requirements and standards for a producer in Article 9A. Technical changes delete reference to qualifications for a surplus lines broker license in Article 9A, addressed in proposed amendments to Article 8, as well as clarify a licensed producer need not retake the producer license examination provided renewal requirements are timely met.

**B. Reinsurance Intermediaries**

Sections 10 through 12 clarify and streamline the licensing requirements for reinsurance intermediaries in Article 9B of the Insurance Code.

Reinsurance intermediaries operating in the State must be licensed. Licensees will no longer be required to file proof of the bond, the errors and omissions policy, and the contract with the reinsurer. Rather, the reinsurance intermediary will be required to produce these documents at the Commissioner's request.

Reinsurance intermediaries licensed in states with substantially similar laws have reciprocity and may obtain a non-resident reinsurance intermediary license.

**C. Annuity Training**

Sections 13 and 14 provide greater clarity and consistency in the training of insurance producers selling annuity products in Hawaii. By strengthening insurance producer training requirements under this bill, the Department hopes to ensure that producers do not target the elderly for inappropriate annuity sales. The Department believes that this bill would enable the Department to more efficiently regulate insurance producers, while protecting Hawaii's senior citizens.

D. Enforcement Authority

Section 2 of the bill amends HRS § 431:2-203 to enhance the Commissioner's enforcement authority by adding restitution. Although the Insurance Code currently allows the Commissioner to impose monetary fines in addition to revocation, suspension, or denial of a license or certificate of authority, the Commissioner does not have the statutory authority to require restitution from violators.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
COMMENTING ON SENATE BILL 2768, RELATING TO INSURANCE

February 2, 2012

Via e mail

Hon. Senator Rosalyn H. Baker, Chair  
Committee on Commerce and Consumer Protection  
State Senate  
Hawaii State Capitol, Conference Room 229  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Baker and Committee Members:

Thank you for the opportunity to Comment on SB 2768, relating to Insurance.

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.

Last session, SB 1278 was enacted into law as Act 108. The intent and purpose of the Act was to adopt the National Association of Insurance Commission’s (“NAIC”) Suitability in Annuity Transactions Model Regulation (“Model Regulation”) and to comply with the senior investor protections mandated by the Federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

Generally, ACLI supports insurance provisions that conform to federal law and national standards.

Section 14 of SB 2768 (Page 40, lines 14-17) seeks to clarify the requirements relating to the Insurance Producer training in the sale of annuities by amending, among other provisions, paragraph (d) of §431:10D-626 (at page 40, beginning at line 14 of the bill) as follows:

(d) The training required by this section shall be approved by the commissioner, be conducted by an approved continuing education course provider, and meet [stated requirements] . . . .

However, the Model Regulation does not require that the training be provided by "an approved continuing education course provider" and therefore, an accredited continuing education course. Whereas, the Model Regulation allows the training to be provided by a course provider who may not necessarily be a continuing education Insurance Division approved course provider. In other words, as proposed the bill would require the training to be a continuing education course – the model Regulation would allow the training to qualify for continuing education credit but it does require that it be an accredited continuing education course.

In furtherance of the deviation from the Model Act, Section 13 of the bill (on page 39, beginning at line3), amends section 431:10D-622, which adds a definition of the term "approved continuing education course provider" and "continuing education credit". In addition section 14 of the bill (on page 41, beginning at line 14) adds a new paragraph (e) that requires the provider of the training to register as "an approved continuing education provider in this State and comply with the rules and guidelines applicable to insurance producer continuation courses as set forth in Article 9A."

It is important that the Model Regulation be adopted without changes. This will ensure uniform and national regulation of the annuity training requirements across the country.

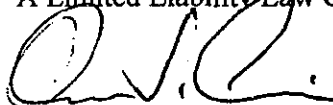
Accordingly, ACLI requests that paragraph (d) of §431:10D-626 as set forth in section 14 of the bill (page 40, at lines 14-17) be amended as follows:

(d) The training required by this section shall be approved by the commissioner, be conducted by an approved ~~continuing education course~~ provider, and meet [stated requirements] . . . .

In addition, the new paragraph (e) of section 431:10D-622 (on page 41, beginning at line 14) and the two new definitions in Section 13 (on page 39, beginning at line3) of the bill should be deleted.

Again, thank you for the opportunity to comment on SB 2768.

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HAWAII

Senate Committee on Commerce & Consumer Protection  
Hearing on February 2, 2012 – 9:00 am

RE: **Senate Bill 2768 – Relating to Insurance**

Senator Rosalyn Baker, Chair  
Senator Brian Taniguchi, Vice Chair

Chair Baker, Vice Chair Taniguchi, and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of life and health insurance agents throughout Hawaii, who primarily market life insurance, annuities, long term care and disability income products.

We are addressing Section 13 beginning on page 39 of SB 2768 relating to HRS 431:10D-622 and 626 (Insurance Producer Training).

The amendments provided by the Insurance Commissioner updates Act 108, SLH 2011, that adopted the NAIC Suitability in Annuity Transactions Model Regulation to comply with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

Producers (insurance agents) authorized to sell annuity products are required to complete a one time 4-hour annuity training course by January 31, 2012, to sell annuities, or if a new licensee, after 1-31-2012, complete the training before being allowed to sell annuity products.

Additionally, producers must also be in compliance with their respective insurers' standards for product training. Insurers are responsible to ensure that producers complete the mandatory training prior to allowing producers to sell the annuity.

**We support this section of the bill.** Insurance Division and ACLI are working on amendments to clarify language and we will agree with their clarifying language.

Mahalo for the opportunity to testify.

Cynthia Takenaka 808-394-3451  
Executive Director



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February 2, 2012

Senator Rosalyn Baker, Chair  
Senator Brian Taniguchi, Vice Chair  
Committee on Commerce & Consumer Protection  
Hawaii State Capitol, Room 229  
Honolulu, HI 96813

**RE: IN SUPPORT OF SB2768**

Dear Chair Baker, Vice Chair Taniguchi, and Members of the Committee:

Thank you for the opportunity to comment on Senate Bill 2768. My name is John Radcliffe and I am representing Asurion in support of SB2768.

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. SB2768 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 SB2768 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 SB2768, 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 SB2768 with the Insurance Division of the Department of Commerce and Consumer Affairs and the Division is in agreement with the bill's language.

In summary, SB2768 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 SB2768 for further consideration.

Sincerely,

John H. Radcliffe