

LATE TESTIMONY

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To: House Committee on Consumer Protection and Commerce

From: Cheryl Kakazu Park, Director

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

Re: Testimony on S.B. No. 3062, S.D. 1
Relating to Insurance

Thank you for the opportunity to testify regarding Senate Bill No. 3062, S.D.

1. OIP takes no position on the substance of this bill, but is testifying to recommend an amendment to a confidentiality provision proposed by this bill.

At page 30, starting on lines 5, the bill adds a new section -14 requiring confidentiality of certain insurance records described in the subsection but also, on line 18, providing that these insurance records "shall not be subject to chapter 92F. . . ." The effect of this language would not simply be to provide confidentiality, but would bring the information entirely outside the requirements of the Uniform Information Practices Act ("UIPA"), chapter 92F. In other words, the department would have no obligation to acknowledge receipt of a request and provide a reason for its denial as generally required; it could simply ignore requests for records containing that information.

OIP uniformly and strongly recommends against provisions in statutes outside of the UIPA that seek to exclude records from the UIPA's entire statutory scheme. OIP believes that, where the intent is to exempt certain records from

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disclosure, it is clearer and more appropriate to instead simply make the records “confidential.”

Therefore, OIP recommends that your Committee amend this bill by replacing, on page 30, line 18, the phrase “shall not be subject to chapter 92F” and inserting instead the phrase “shall not be made public.” The proposed phrase “shall not be made public” is already used in other confidentiality provisions in the Insurance Code. For example, HRS section 431:5-307(j)(4)(G) states that “[a]ny memorandum in support of the opinion . . . shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena.” Thus, inserting the phrase “shall not be made public” into the bill would provide **consistent** confidentiality provisions in the Insurance Code.

Thank you for considering our testimony and suggested amendment.