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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Wednesday, April 11, 2012
9:35 a.m.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON SENATE CONCURRENT RESOLUTION NO. 44, S.D.1 –
REQUESTING THE INSURANCE COMMISSIONER TO CONDUCT A FACT-FINDING
AND FEASIBILITY STUDY ON THE VIABILITY OF USING ACCELERATED DEATH
BENEFITS AND VIATICAL SETTLEMENTS AS A SOURCE OF FUNDING FOR
LONG-TERM CARE NEEDS.**

TO THE HONORABLE DAVID IGE, 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”). The Department supports the intent of this concurrent resolution.

The purpose of this concurrent resolution is to request the Commissioner
conduct a fact-finding and feasibility study that provides recommendations on the
viability of using accelerated death benefits and viatical settlements to fund long-term
care needs and submit a report to the Legislative Reference Bureau by November 1,
2012. Further, the Commissioner is to submit his findings and recommendations to the
Legislature no later than twenty days prior to the convening of the Regular Session of
2013.

Recognizing the aging of Hawaii's population and the need for long-term care in the State, the Legislature created the Hawaii Long-Term Care Commission in 2008 to conduct a comprehensive assessment of Hawaii's long-term care system and to recommend changes. In the Final Report submitted by Long-Term Care Commission, one area of the focus was the problem of additional financing to pay for long-term care services for the elderly. One of the proposed initiatives recommended possibly paying for long-term care services by using life insurance as a source of long-term care financing. Specifically, the Long-Term Care Commission recommended that the Commissioner and the Legislature study the feasibility of using accelerated death benefits and viatical settlements to fund long-term care needs.

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

Charlotte A. Carter-Yamauchi
Acting Director

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Written Comments

SCR 44, SD 1

REQUESTING THE INSURANCE COMMISSIONER TO CONDUCT A FACT-FINDING AND FEASIBILITY STUDY ON THE VIABILITY OF USING ACCELERATED DEATH BENEFITS AND VIATICAL SETTLEMENTS AS A SOURCE OF FUNDING FOR LONG-TERM CARE NEEDS

Comments by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the Senate Committee on Ways and Means

Wednesday, April 11, 2012, 9:35 a.m.
Conference Room 211

Chair Ige and Members of the Committee:

I am Charlotte Carter-Yamauchi, Acting Director of the Legislative Reference Bureau.

Thank you for this opportunity to provide comments on S.C.R. No. 44, S.D. 1.

Among other things, the Concurrent Resolution requests the Insurance Commissioner to:

- (1) Conduct a fact-finding and feasibility study that provides recommendations on the viability of using accelerated death benefits and viatical settlements as a source of funding for long-term care needs;
- (2) Research, examine, and report on the following:
 - (A) The feasibility of using accelerated death benefits and viatical settlements as funding sources for long-term care;
 - (B) Statistical data regarding the number of life insurance policies in Hawaii that contain accelerated death benefits provisions;
 - (C) The percentage of life insurance policies in Hawaii that are converted to life settlements contracts;

- (D) A review of the Hawaii Insurance Code to identify and recommend ways to eliminate unnecessary barriers, if any, to implementing viatical settlements; and
 - (E) Oversight policies and infrastructure that other states and organizations have developed and implemented to regulate and ensure legitimate viatical settlement transactions; and
- (3) Submit its findings and recommendations, including proposed legislation, if any, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2013.

The measure also requests that the American Council of Life Insurers, the National Association of Insurance and Financial Advisors Hawaii, and life settlements brokers selling life settlement policies in Hawaii assist the Insurance Commissioner in conducting necessary studies and completing the report.

Finally, the measure requests that the Legislative Reference Bureau assist the Insurance Commissioner in preparing its report including recommendations and proposed legislation, if any; provided that the Insurance Commissioner submits a draft of the report and any proposed legislation to the Legislative Reference Bureau no later than November 1, 2012.

While the Bureau takes no position on the merits of the measure, we note that the genesis of this requested study seems to come from one of the recommendations contained in the Executive Summary of the Hawaii Long-Term Care Commission's Final Report. As drafted, the duties requested of the Bureau appear to be manageable and within the Bureau's scope of expertise. If the measure is adopted, the Bureau looks forward to assisting the Insurance Commissioner in completing the task requested.