



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SEVENTH LEGISLATURE
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9:10 a.m.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON HOUSE BILL NO. 841, H.D. 1, S.D. 1 – RELATING TO
INSURANCE.**

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”). Thank you for hearing this bill. The Department strongly supports this Administration bill.

The purpose of this bill is to streamline and improve the operations of the Insurance Division and to ensure that the Insurance Division retains its accreditation with the National Association of Insurance Commissioners (“NAIC”) by updating the Insurance Code, chapter 431, HRS (“Insurance Code”).

Section 1 of the bill amends HRS § 431:3-403(a)(1)(B) by adopting the current authorized control level for risk-based capital (“RBC”) trend test for life insurers. RBC represents an amount of required capital that an insurer should hold to protect policyholders against adverse developments based on an assessment of the inherent risks in the insurer’s operations. This will ensure that the Insurance Division retains its NAIC accreditation.

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In November 2011, NAIC revised the Risk-Based Capital for Insurers Model Act for life insurers, changing the authorized control level to a higher standard at which the RBC trend test was triggered for consistency with the level used for health and property and casualty insurers. The NAIC raised the authorized control level at which the life trend test could be triggered from 2.5 to 3. The life trend test attempts to give an indication of weakly capitalized companies that are not currently at an RBC action level but are showing financial results that indicates they may soon be at an action level. Having the same trend test level across states provides a consistent RBC standard for insurers to follow.

Section 2 of the bill amends HRS § 431:9A-153(f) by increasing the maximum allowable credit hours that may be approved for producer continuing education courses from 20 to 24, consistent with HRS § 431:9A-124(b). Under HRS § 431:9A-124(b), an insurance producer must take 24 credit hours of continuing education coursework to qualify for license renewal. This housekeeping change would bring HRS § 431:9A-153(f) in line with HRS § 431:9A-124(b).

Section 3 of the bill amends HRS § 431:15-103.5 by adopting the provisions of the NAIC Model Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition ("NAIC Model Regulation") to ensure the Insurance Division retains its NAIC accreditation. In July 2010, NAIC adopted revisions to the NAIC Model Regulation, which governs the standards and authority for determining whether any insurer may be operating in a financial hazardous condition.

Section 4 of the bill amends HRS § 431:19-102.3 by clarifying that the nonrefundable application fee for a captive insurance company ("captive") redomesticating from another jurisdiction to Hawaii must be paid at the time of application. This housekeeping amendment clarifies that the nonrefundable application fee for redomesticating captives must be paid at the time of application, as is the case for all other captives, and codifies long-standing existing practice.

Section 5 of the bill amends HRS § 431:19-115(b) by clarifying the Insurance Code provisions applicable to risk retention captives, ensuring that the Insurance

Division retains its NAIC accreditation, and reflecting the Insurance Division's current practices. This amendment would make the following provisions apply to risk retention captives:

- HRS § 431:3-304.5: This section requires traditional insurers to file the statement of actuarial opinion with the annual statement, deems an insurer's statement of actuarial opinion as a public document, and provides confidentiality for the actuarial opinion summary and related documents. Similarly, captives are also required to file a statement of actuarial opinion with the annual statement under HRS § 431:19-107(c). Although statements of actual opinion are considered public records for traditional insurance companies under HRS § 431:3-304.5, this section currently does not apply to risk retention captives under HRS § 431:19-115. NAIC accreditation standards require that statements of actuarial opinion for risk retention captives be considered public records, as required by HRS § 431:3-304.5.
- HRS §§ 431:3-401 to 431:3-407 and 431:3-414: These sections govern RBC reports. This amendment would clarify existing law, since risk retention captives are currently required to file RBC reports, pursuant to HRS § 431:19-107(b)(2).

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