

# HB 841, HD1

Measure Title: RELATING TO INSURANCE.

Report Title: Insurance

Description: Updates the Insurance Code by establishing a thirty day window for an application for a hearing on a regulatory action, updating standards to determine if insurers transacting business pose a hazard, adding to corrective measures the Commissioner may order completed by hazardous insurers, and updating provisions that apply to risk retention captive insurance companies. Effective July 1, 2112. (HB841 HD1)

Companion: SB1072

Package: Gov

Current Referral: CPN, WAM

Introducer(s): SOUKI (Introduced by request of another party)



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TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2013

Thursday, March 14, 2013  
9:30 a.m.

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

TO THE HONORABLE ROSALYN 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, but prefers the Senate version found in Senate Bill No. 1072. Senate Bill No. 1072, S.D. 2, was heard by the House Committee on Consumer Protection & Commerce on Monday.

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 this version of the bill amends HRS § 431:2-308(d) by establishing a 30-day deadline to request an administrative hearing. The Department respectfully requests that Section 1 be deleted.

Section 2 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.

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 3 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 4 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 5 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 6 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).

The Department respectfully requests that the contents of Senate Bill No. 1072, S.D. 2 with an effective date of July 1, 2013, be substituted into this bill.

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

TESTIMONY ON H.B. NO. 841, H.D. 1  
RELATING TO INSURANCE

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Sen. Rosalyn H. Baker, Chair  
Sen. Brickwood Galuteria, Vice Chair

Thursday, March 14, 2013, 9:30 a.m.  
State Capitol, Conference Room 229

My name is Gerald C. Yoshida, Chairman of the Legislative Committee of the Hawaii Captive Insurance Council (HCIC), a trade organization of captive insurance companies and service providers who comprise and support Hawai'i's captive insurance industry.

Subject to inserting a more current effective date, HCIC supports H.B. No. 841, S.D. 1, which amends certain provisions of the Hawaii Insurance Code that relate to risk retention captive insurance companies domiciled in Hawaii under the State's captive insurance law, so that the State may maintain its accredited status with the National Association of Insurance Commissioners.

Thank you for this opportunity to submit testimony in support of H.B. No. 841, S.D. 1.

Respectfully submitted:  
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