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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2013

Monday, February 25, 2013  
2:30 p.m.

**TESTIMONY ON HOUSE BILL NO. 999, H.D. 1 – RELATING TO INSURANCE.**

TO THE HONORABLE ANGUS L.K. MCKELVEY, 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 bill, but respectfully requests  
that it be amended.

The purpose of this bill is to adopt the National Association of Insurance  
Commissioners Reinsurance Guidelines for Risk Retention Groups Licensed as Captive  
Insurers ("NAIC Guidelines").

Currently, a Hawaii risk retention captive insurance company ("Risk Retention  
Captive") may take credit for reserves on risks ceded to a reinsurer, provided that the  
reinsurer complies with the credit for reinsurance requirements under article 4A, chapter  
431, Hawaii Revised Statutes ("Article 4A"). The NAIC Guidelines allow a Risk  
Retention Captive to take credit for reinsurance even if risks are ceded from a reinsurer  
that does not meet Article 4A requirements, provided that the reinsurer maintains an A-  
or higher A.M. Best rating or the reinsurer meets other standards determinative of its  
financial stability.

The NAIC Guidelines were adopted by NAIC on March 29, 2008, and gives risk retention groups licensed as captive insurers more flexibility in taking credit for reinsurance from reinsurers who may not be authorized under Article 4A. As most of the top U.S. risk retention group domiciles, including Vermont, District of Columbia, and Nevada, have adopted the NAIC Guidelines, Hawaii would lose its competitive edge as a leader in the captive industry if the State does not adopt the NAIC Guidelines.

As the NAIC Guidelines do not rise to the level of a NAIC model regulation or model rule, the Department believes it is more appropriate to adopt the NAIC Guidelines in the Hawaii Administrative Rules. Accordingly, the Department respectfully requests that this bill be amended to clarify when a Risk Retention Group would be allowed to qualify for credit for reinsurance and to give the Commissioner statutory authority to adopt the NAIC Guidelines as part of the Hawaii Administrative Rules. We have attached a proposed draft incorporating these changes for the Committee's consideration.

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

**Report Title:**

Captive insurance companies

**Description:**

Clarifies when a risk retention captive insurance company would qualify for credit for reinsurance on risks ceded to a reinsurer. (Proposed HD2)

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# A BILL FOR AN ACT

RELATING TO INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 431:19-111, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§431:19-111 Reinsurance.** (a) Any captive insurance  
4 company may provide reinsurance on risks ceded by any other  
5 insurer only upon approval of the reinsurance agreement by the  
6 commissioner.

7           (b) Any captive insurance company may take credit for  
8 reserves on risks ceded to a reinsurer; provided that no captive  
9 insurance company shall cede risks without the approval of the  
10 commissioner.

11           (c) In the case of a risk retention captive insurance  
12 company, a risk retention captive insurance company:

13           (1) Shall qualify for credit for reinsurance on risks  
14 ceded to a reinsurer if the reinsurer is in compliance  
15 with article 4A; or

16           (2) May qualify for credit for reinsurance on risks ceded  
17 to a reinsurer, if the reinsurer meets the reinsurance

1           guidelines for risk retention captive insurance  
2           companies as adopted by the commissioner pursuant to  
3           chapter 91."

4           SECTION 3. New statutory material is underscored.

5           SECTION 4. This Act shall take effect upon its approval.

TESTIMONY ON H.B. NO. 999, H.D. 1  
RELATING TO INSURANCE

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
Rep. Angus L.K. McKelvey, Chair  
Rep. Derek S.K. Kawakami, Vice Chair

Monday, February 25, 2013, 2:30 p.m.  
State Capitol, Conference Room 325

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.

The purpose of H.B. No. 999, H.D. 1 is to amend the insurance code provisions relating to captive insurance companies by adopting the National Association of Insurance Commissioners' Reinsurance Guidelines for Risk Retention Groups Licensed as Captive Insurers ("NAIC Reinsurance Guidelines"). The NAIC Reinsurance Guidelines set forth parameters under which risk retention groups licensed as captive insurers may take credit for reinsurance ceded to reinsurers.

While HCIC supports the general purpose of the bill, as well as timely adoption of the NAIC Reinsurance Guidelines, upon consultation with the Hawaii Insurance Division, HCIC would suggest that the bill be amended to allow the NAIC Reinsurance Guidelines to be adopted through rule-making pursuant to the Hawaii Administrative Procedures Act.

Thank you for this opportunity to submit testimony in support of H.B. No. 999, H.D. 1.

Respectfully submitted:  
Gerald C. Yoshida  
Chair, Legislative Committee  
Hawaii Captive Insurance Council  
737 Bishop Street, Suite 2100  
Honolulu, Hawai'i 96813  
Ph: 524-3800

**TESTIMONY OF JASON PALMER ON BEHALF OF WILLIS CAPTIVE PRACTICE**

**TESTIMONY ON H.B. NO. 999, H.D.1  
RELATING TO INSURANCE**

**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

**Representative, Angus L.K. McKelvey, Chair  
Representative, Derek S.K. Kawakami, Vice Chair**

**Monday, February 25, 2013, 2:30pm  
State Capitol, Conference Room 325**

My name is Jason Palmer, Managing Director of Willis Management (Hawaii), a division of Willis, the third largest global insurance broker in the world. Willis Management (Hawaii) serves as a consultant and captive manager to several captive insurance companies domiciled in Hawaii and in other US jurisdictions.

I respectfully submit my testimony in support of the general purpose of this bill by adopting the National Association of Insurance Commissioners' (NAIC) Reinsurance Guidelines for Risk Retention Groups licensed as Captive Insurers. It is my understanding that the Hawaii Captive Insurance Council (HCIC), in consultation with the Hawaii Insurance Division will suggest an amendment to this bill to allow for such guidelines to be adopted as Hawaii Administrative Rules. If that is the case, I am also in support of such measure and look forward to working with the Hawaii Insurance Division to enact such guidelines as expeditiously as possible.

Captive insurance entities not only contribute premium tax revenue to the State, the formation and maintenance of captive business in Hawaii generates significant revenues and benefits in the form of general excise, income, and transient accommodation taxes paid by service providers and others doing business with captives in Hawaii. With increasing competition from other U.S. domiciles, it is critical that Hawai'i continue to attract new captive formations by reputable business entities and enhance opportunities for those captive entities currently domiciled in Hawaii. Passing this measure, will enable Hawaii to continue its position as a preferred domicile in the increasingly competitive captive insurance marketplace.

Thank you for this opportunity to submit testimony in support of H.B. No. 999, H.D.1.

Respectfully submitted:



Jason Palmer, CPA

TESTIMONY ON H.B. No. 999, H.D. 1  
RELATING TO INSURANCE

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair  
Rep. Derek S.K. Kawakami, Vice Chair

Monday, February 25, 2013, 2:30 p.m.  
State Capitol, Conference Room 325

My name is Fay Okamoto, branch manager of Artex Risk Solution, Inc.'s Hawai'i office. Artex serves as the authorized captive manager for a number of captive insurance companies domiciled in the State of Hawai'i. I am also Chairman of the Hawai'i Captive Insurance Council (HCIC), a trade organization representing approximately 100 captive insurance companies and service providers who support Hawai'i's captive insurance industry.

I support the purpose of H.B. No. 999 which seeks to adopt guidelines prescribed by the National Association of Insurance Commissioners' Reinsurance Guidelines for Risk Retention Groups Licensed as Captive Insurers (NAIC Reinsurance Guidelines). I understand that the HCIC, upon consultation with the Hawaii Insurance Division, suggests that the bill be amended to allow the NAIC Reinsurance Guidelines to be adopted through Hawaii Administrative Rules. We are in favor of such an amendment to the bill, and look forward to working with the Hawaii Insurance Division in the rule-making process.

Captives provide significant direct and indirect benefits to the State in the form of employment of Hawai'i-based professional service providers, investment of captive dollars in Hawaii financial institutions, and tourism dollars. We thank the legislature for their continued support of this unique industry.

Thank you for this opportunity to testify in support of H.B. No. 999, H.D. 1.

Respectfully submitted,



Fay Okamoto  
Division Senior Vice President  
Artex Risk Solutions, Inc.  
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