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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2014

Thursday, February 20, 2014
9:05 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL NO. 2821, S.D. 1 – RELATING TO INSURANCE.

TO THE HONORABLE DAVID Y. 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 purposes of this bill are to: (1) adopt revisions to the National Association of Insurance Commissioners’ (“NAIC”) model laws on Credit for Reinsurance Model Act, Standard Valuation Law, Standard Nonforfeiture Law for Life Insurance, and Insurance Holding Company System Regulatory Act; and (2) ensure that the Insurance Division maintains its accreditation with the NAIC.

These revisions are part of NAIC’s Solvency Modernization Initiative (“SMI”), a critical self-examination to update the U.S. insurance solvency regulation framework and to review international developments regarding insurance supervision, banking supervision, and international accounting standards and their use in U.S. insurance

regulation. The scope of the SMI is not limited to the evaluation of solvency-related areas and includes the entire U.S. financial regulatory system and all aspects concerning the financial condition of an insurer. The SMI focuses on key issues, such as capital requirements, governance and risk management, group supervision, statutory accounting and financial reporting, and reinsurance.

SECTIONS 1 AND 2 of the bill amend Hawaii Revised Statutes (“HRS”) §§ 431:4A-101 and -102 to reduce the reinsurance collateral requirements of non-U.S. licensed reinsurers that are licensed and domiciled in jurisdictions qualified by the NAIC. These amendments, which are modeled after NAIC’s Credit for Reinsurance Model Act, stem from the global financial crisis of 2008 and the resulting federal Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), which was signed into law on July 21, 2010. The Dodd-Frank Act includes the Nonadmitted and Reinsurance Reform Act (“NRRA”), which prohibits a state from denying credit for reinsurance if the domiciliary state of the ceding insurer recognizes such credit and is either an NAIC-accredited state or has financial solvency requirements substantially similar to NAIC’s accreditation requirements. The NRRA also preempts extraterritorial application of a non-domiciliary state’s laws, regulations, or other actions, and it reserves sole responsibility for regulating the reinsurer’s financial solvency to a reinsurer’s domiciliary state. Finally, the NRRA prohibits any state from requiring a reinsurer to provide financial information in addition to that required by its NAIC-compliant domiciliary state. The amendments to HRS §§ 431:4A-101 and -102 seek to incorporate these changes.

SECTION 3 of the bill repeals HRS § 431:4A-105, which contains dates that no longer apply to the current revision.

SECTION 4 of the bill amends HRS § 431:5-307 to introduce Principle-Based Reserving (“PBR”), a new method of calculating life insurance policy reserves that better measures the risks of innovative life insurance policies. Currently, preset formulas are used to value life insurance policy reserves. Once adopted by a

supermajority¹ of legislatures, PBR would replace this formulaic approach with an approach that uses a valuation manual containing reserving requirements, thereby more accurately reflecting the risks of life insurance products. PBR is also expected to “right-size reserves,” reducing reserves that are too high for some products and increasing reserves that are too low for others. Accordingly, the amendments modeled after NAIC’s Standard Valuation Law use a more nuanced method to assess the risks of highly complex life insurance policies.

SECTION 5 of the bill amends HRS § 431:10D-104 and is modeled after NAIC’s Standard Nonforfeiture Law for Life Insurance. These amendments are intended to exist as a package with NAIC’s Standard Valuation Law and preserve coordination between mortality and interest rate assumptions.

SECTION 6 of the bill adds a new section to article 11 of chapter 431, HRS, and SECTIONS 7 THROUGH 14 of the bill amend article 11 of chapter 431, HRS, to comply with NAIC’s accreditation requirement that states adopt significant elements of its Insurance Holding Company System Regulatory Act (“Regulatory Act”), effective January 1, 2016. The Regulatory Act resulted from the global financial crisis of 2008, which exposed the need for regulators to assess the enterprise risk of insurance holding company systems and its impact or contagion upon insurers in those systems. In accordance with the Regulatory Act, the addition and amendments to article 11 enhance certain features of group supervision by providing clearer windows into group operations while simultaneously building upon the existing walls that protect insurer solvency. The concepts addressed in this enhanced “windows and walls” approach include: (1) communication between regulators; (2) supervisory colleges; (3) access to and collection of information; (4) enforcement measures; (5) group capital assessment; and (6) accreditation.

More specifically:

SECTION 6 of the bill adds a new section to article 11 of chapter 431, HRS, to introduce supervisory colleges for regulators.

¹ PBR will be effective after at least 42 states (comprising more than 75% of U.S. direct written premiums) adopt the amended law and Valuation Manual.

SECTION 7 of the bill amends HRS § 431:11-102 by adding a new definition of “enterprise risk” and amending the definition of “person.”

SECTION 8 of the bill amends HRS § 431:11-104(a), (b), (d), and (g) by detailing the filing requirements for merging with or acquiring control of a domestic insurer. These amendments enhance regulators’ rights to access information, including the examination of affiliates and access to books and records to better ascertain the financial condition of the insurer.

SECTION 9 of the bill amends HRS § 431:11-104.2(b) by indicating exclusions to the applicability of HRS §§ 431:11-104.2 and 431:11-104.3 through -104.6.

SECTION 10 of the bill amends HRS § 431:11-105 by setting forth the registration requirements for insurance holding company systems.

SECTION 11 of the bill amends HRS § 431:11-106(a) by setting forth the standards for transactions of insurance holding company systems. Subsection (c), pertaining to domestic insurers, is also amended to delineate the makeup of directors and committees of the board of directors, as well as the quorum requirements for transacting insurance business during board or committee meetings.

SECTION 12 of the bill amends HRS § 431:11-107 by setting forth the Commissioner’s examination authority of insurers registered under HRS § 431:11-105, as well as their affiliates, to ascertain their financial condition and enterprise risk.

SECTION 13 of the bill amends HRS § 431:11-108 by setting forth the confidential treatment afforded to documents, materials, or other information obtained by or disclosed to the Commissioner in the course of an examination made pursuant to HRS § 431:11-107.

SECTION 14 of the bill amends HRS § 431:11-111 by imposing sanctions upon insurance holding company systems that violate article 11, including: fines, civil forfeiture, cease and desist orders, orders of supervision, criminal proceedings, and the disapproval of dividends.

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

**Comments of
Gary M. Slovin / Mihoko E. Ito
on behalf of
USAA**

DATE: February 18, 2014

TO: Senator David Ige
Chair, Committee on Ways and Means
Submitted Via WAMTestimony@capitol.hawaii.gov

RE: **S.B. 2821, S.D.1 – Relating to Insurance
Decision Making: Thursday, February 20, 2014 at 9:05am
Conference Room: 211**

Dear Chair Ige and Members of the Committee on Ways and Means:

We submit these comments in support of S.B. 2821, S.D. 1 on behalf of USAA, a diversified financial services company. USAA is the leading provider of competitively priced financial planning, insurance, investments, and banking products to members of the U.S. military and their families. USAA has over 82,000 members in Hawaii, the vast majority of which are military-based members.

USAA **strongly supports** S.B. 2821, S.D.1, which adopts revisions to the National Association of Insurance Commissioners' model laws on Credit for Reinsurance Model Act, Standard Valuation Law, Standard Nonforfeiture for Life Insurance, and Insurance Holding Company System Regulatory Act. USAA particularly supports Parts II and III of the bill, which propose to implement the NAIC model law for Hawaii's standard valuation law and standard nonforfeiture law. Updating these sections of the law would modernize Hawaii's procedure for setting reserves for life insurance.

USAA notes that the Senate Committee on Commerce and Consumer Protection amended the bill in the S.D.1 to: 1) clarify that confidential documents, materials or other information are not disclosable under Chapter 92F; 2) make substantive amendments to conform with NAIC laws and regulations; and 3) make other technical amendments. USAA supports these amendments and respectfully asks that the Committee move this bill forward. Thank you very much for the opportunity to submit comments.

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