

SB3064

Measure Title:	RELATING TO INSURANCE.
Report Title:	Insurance; Adjuster; Public Adjuster
Description:	Amends definitions of "adjuster" and "public adjuster". Adds definitions for "insurance appraiser" and "insurance umpire".
Companion:	HB1990
Package:	None
Current Referral:	CPH
Introducer(s):	ESPERO, KEITH-AGARAN, Baker, Ihara, Shimabukuro



DAVID Y. IGE
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

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Friday, February 19, 2016
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 3064 – RELATING TO INSURANCE.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department is providing the following comments.

This bill adds two definitions, “insurance appraiser” and “insurance umpire,” to the Insurance Code. The Department is unsure as to the necessity of creating these two new classifications under the Code as these terms are found in insurance policies and not in the National Association of Insurance Commissioners (NAIC) model acts or laws. The Department notes that both definitions require individuals to be “competent and well-versed in chapter 431” and we are unclear as to the standards that are to be used to make those determinations.

This bill also proposes to amend the definition of “adjuster” to include all salaried employees of insurers and adjusting corporations, and redefining the term “public adjuster” to limit homeowners’ access to assistance from third-parties. The Department has not received any complaints on the application of the current definitions and are unsure that changes to these definitions are needed at this time.

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

Hawaii State Legislature
Senate Committee on Commerce, Consumer Protection and Health
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 18, 2016

Filed via electronic testimony submission system

Dear Senator Baker, Chair; Senator Kidani, Vice Chair; and honorable members of the Committee on Commerce, Consumer Protection, and Health:

RE: SB 3064, Adjusters and Public Adjuster - NAMIC's Written Testimony in Opposition

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 19, 2016, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,300 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$208 billion in annual premiums, accounting for 48 percent of the automobile/homeowners market and 33 percent of the business insurance market. NAMIC has 69 members who write property/casualty and workers' compensation insurance in the State of Hawaii, which represents 30% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC and its members appreciate the importance of consumer education and informed consumer choice, so we support the intent of the bill. However, NAMIC is concerned that the bill may actually confuse insurance consumers, needlessly increase insurance claims adjusting costs, delay settlement of claims, and establish a claims adjusting process that is inconsistent with the national standard and the National Association of Insurance Commissioners' (NAIC) Model Act on Public Adjusters.

NAMIC respectfully submits the following statement of the concerns and recommendations:

1) Definition of an “adjuster” -

To start with, NAMIC believes that the definition of an “adjuster” is confusing and incompatible with the definition of a “public adjuster”. It is also inconsistent with the practical reality of the situation and the common understanding of the professional relationship between an insurer and an “adjuster”, and the relationship between a policyholder and a “public adjuster”.

In common parlance, the “adjuster” works for and represents the insurer in adjusting the claim in a manner consistent with the terms of the insuring agreement. In contrast, the “public adjuster” works for and represents *only* the policyholder during the claims adjusting and settlement process.

The proposed definition in SB 3064 needs to be simplified and clarified so that it reflects the true and actual relationship these professionals have with their respective employer (insurer or policyholder).

Consequently, NAMIC recommends the following proposed revisions to the definition of an “adjuster” (deletions in red font, additions in blue font):

“Adjuster” - Means any licensed individual who: (A) Acts solely on behalf of either the insurer or the insured, as an independent contractor or as an employee of an independent contractor; and (B) Investigates for, reports to, or adjusts for the individual’s principal relative to claims arising under insurance contracts;

NAMIC suggests removing “the insured” language, because the “public adjuster” represents the policyholder in the claims adjusting and settlement process. Including “insured” in *both* the definition of an (“adjuster” and “public adjuster” is confusing).

NAMIC recommends adding the word “licensed” to “individual” so that it is clear that these professionals are independent contractor, who personally comply with state licensure since they are not directly employed, trained, and supervised by the state licensed insurance company.

NAMIC also respectfully recommends that the section captioned, “Adjuster - Does not include an individual who is -” be revised so that the following exclusion from the definition of an “Adjuster” is made clear and consistent with earlier provisions in the definition.

NAMIC suggests that the exclusion from the definition of an “Adjuster” include the following: “[a] salaried employee of an insurer or salaried employee of an adjusting corporation or an association owned or controlled by an insurer who performs claims administration and adjusting on behalf of the insurer.” [Blue font denotes suggested addition to original statutory exclusion].

This exclusion is important, because the vast majority of insurance companies have claims departments with claims staff adjuster employees who administer, adjust, and settle insurance claims on behalf of and pursuant to the licensure of the state licensed insurer.

Insurers do this because it promotes pro-consumer efficiency (timely resolution of claims for policyholders), cost-effectiveness (independent contractors are often more expensive service rate-wise and have higher administrative costs/expenses), and uniformity (insurer claims departments are better able to develop subject matter expertise and maintain internal uniformity and consistency in adjusting practices). Consequently, the proposed definition in HB 1990 is inaccurate and needs to be amended to reflect the practical reality of the claims adjusting process.

2) Definition of a “public adjuster” -

The most straight forward approach to defining a “public adjuster” would be to simply adopt the definition contained in the NAIC 2005 Public Adjuster Licensing Model Act. However, if the State Legislature is wedded to following the current structure of the statute, NAMIC suggests that the definition of a “public adjuster” mirror the definition of the “adjuster” except for the *operative difference* that the “public adjuster” solely represents the policyholder.

NAMIC’s proposed definition:

“Public adjuster”: Means any licensed individual who: (A) Acts solely on behalf of the policyholder; and (B) Investigates for, reports to, or adjusts the insurance claim for the benefit of the policyholder. A “public adjuster” does not include: (A) an individual who is an “independent adjuster” retained by an insurer; and (B) any professional retained by the insurer or policyholder as part of the claims adjusting and settlement process who does not have a contractual duty to act solely on behalf of the policyholder.

NAMIC recommends adopting this clear and concise definition, so as to avoid consumer confusion or the creation of legal ambiguity that could lead to costly and protracted litigation for the policyholder or insurer.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC’s written testimony.

Respectfully,



Christian John Rataj, Esq.
NAMIC Senior Director – State Affairs, Western Region

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

DATE: February 18, 2016

TO: Senator Rosalyn Baker
Chair, Committee on Commerce, Consumer Protection, and Health
Submitted Via CPHtestimony@capitol.hawaii.gov

RE: **S.B. 3064 – Relating to Insurance**
Hearing Date: Friday, February 19, 2016, at 9:00 a.m.
Conference Room: 229

Dear Chair Baker and members of the Committee on Commerce, Consumer Protection, and Health:

We submit this testimony 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 **opposes** S.B. 3064, which amends the definitions of “adjuster” and “public adjuster” and adds definitions for “insurance appraiser” and “insurance umpire.”

This bill would remove the existing exemption from licensure for employees of insurance companies, and would require such employees to obtain an adjuster’s license. This would be a costly and unnecessary procedure, and would impact USAA significantly because, like many other insurance companies, it handles many of its claims over the phone and by internet. For USAA’s property insurance division alone, it has between 800-1000 adjusters who regularly handle Hawaii claims and would be subject to the change proposed in this bill. Requiring licensure for these employees would result in a significant added cost to continue doing business in Hawaii.

Gary M. Slovin
Mihoko E. Ito
C. Mike Kido
Tiffany N. Yajima

999 Bishop Street, Suite 1400
Honolulu, HI 96813
(808) 539-0840

Many states exempt insurance employees from licensure as claims adjusters, because market forces dictate that the insurance company will be responsible for any errors or negligent actions of its employee adjusters. Requiring licensing of in-house adjusters is

not needed, because insurance companies already have an incentive to ensure that their employees are educated and trained properly.

Employee adjusters are unlike independent adjusters, who work as independent contractors, or public adjusters, who are hired by consumers who have no basis on which to evaluate their competency.

Based on the above, we strongly oppose the removal of the existing statutory language at page 2, line 20 through page 3, line 1, and request that the language exempting insurers' employees from adjuster licensure be restored in the bill.

Thank you very much for the opportunity to submit testimony on this measure.

**United Policyholders**

381 Bush Street, 8th Floor
San Francisco, CA 94104
415.393.9990
www.uphelp.org

February 10, 2016

Hon. Rosalyn H. Baker, Chair
Senate Committee on Consumer Protection and Commerce
VIA EMAIL to: senbaker@capitol.hawaii.gov

Re: S.B. 3064 - SUPPORT

Dear Senator Baker:

We are writing to express our support for Senate Bill (“B.B.”) 3064. “We” are United Policyholders (UP), a non-profit that helps, informs and speaks for insurance consumers in Hawaii and across the United States (See www.uphelp.org).

This bill clarifies the rules for insurance appraisals in Hawaii. An insurance appraisal is a process for settling a dispute between an insurer and insured on the extent and cost of property damage. Unlike a real estate appraisal, an insurance appraisal is akin to an arbitration. Each side hires a “Party Appraiser” to appraise and present their views on the damage. An umpire is selected. The appraisers submit documentation that supports their view on the damages. The umpire selects the more credible presentation.

Insurance appraisals can be informal, fair, fast, inexpensive. When done right, they can be a more efficient forum for resolving disputes than a civil lawsuit, courtroom, judge and jury. When done wrong, they are contentious, drawn out, expensive and a waste of time.

By defining the titles and roles of the professionals who generally participate in appraisals, (“adjuster”, public adjuster”, “insurance appraiser”, and “umpire”), S.B. 3064 will preserve the integrity of appraisal as a dispute resolution process and help property owners avoid hiring unscrupulous, untrained and unqualified individuals to serve as their insurance appraiser. Under current law, any person can be eligible to act as an appraiser for any carrier or policyholder even if they have zero training or knowledge or understanding of HRS 431. This bill will fix that. It will further protect consumers by requiring that umpires must comply with the neutrality and disclosure requirements in section HRS 658a-12 of Hawaii’s arbitration laws.

Thank you for your time and consideration of this letter and your support for S.B 3064. Please contact me at 415-393-9990 or amy@uphelp.org if you have any questions.

Sincerely,

Amy Bach, Esq., Executive Director

Board of Directors

Amy Bach
Executive Director

William H. Hedden
President, Board of Directors
Consolidated Adjusting, Inc.

David Baria
Mississippi State Representative

Nicholas Casagrande
NC Financial Group

Jim Jones
HighGear Ventures

Brian S. Kabateck
Kabateck Brown Kellner LLP

E. Gerard Mannion
Mannion and Lowe

William “Chip” Merlin
Merlin Law Group

Susan Piper
Disaster Survivor

John Sullivan
Avaya

Alice J. Wolfson
DL Law Group

Ex Officio

Hon. Stanley G. Feldman
Chief Justice (RET)
AZ Supreme Court

Larry P. Ginsburg, CFP
Ginsburg Financial Advisors, Inc.

Deborah Senn
Insurance Commissioner (1993-2001)
Washington State

William M. Shernoff
Shernoff Biddart Echeverria Bentley LLP

Programs

Advocacy and Action
Roadmap to Preparedness™
Roadmap to Recovery™

**SENATE COMMITTEE
ON
COMMERCE, CONSUMER PROTECTION AND HEALTH**

February 18, 2016

Senate Bill 3064 Relating to Insurance

Chair Baker, Vice Chair Kidani, and members of the Senate Committee on Commerce, Consumer Protection and Health, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm).

State Farm offers the following comments on Senate Bill 3064 Relating to Insurance. State Farm opposes this measure.

After reviewing this bill, State Farm is unclear what the intent of the legislation is, and unfortunately, it appears to create confusion that is not in the current statute.

1. **Appraiser; Umpire.** The first part of the bill defines “insurance appraiser” and “insurance umpire.” State Farm believes that this is unnecessary, and that these definitions might inadvertently create conflict with the long-standing appraisal process in Hawaii. They do no more than restate the definitions for appraisers and umpires that are in most policies, and that they are “appointed by either the insured or the insurer as may be further defined in the policy's appraisal clause.”
2. **Adjuster; Public Adjuster.** HRS 431:9-105 clearly defines two types of insurance adjusters, both of which are independent contractors or employees of independent contractors that operate on behalf of either an insurer or an insured. Those that represent the insured are further defined as “public adjusters.” All of these individuals are required to be properly licensed under HRS 431:9-201.

Following the “public adjuster” definition in the bill is language describing what is **not** a public adjuster, but unfortunately, it contains functions that a public adjuster clearly does. Subsection (2)(A) and (B) state:

(A) A person, contractor, consultant, or third party entity, who, for a fee or other compensation or benefit, **adjusts** or estimates or **acts** as a third party **for an** insurer or for the **insured involving an insurance claim;**

(B) A person, contractor, consultant, or third party entity, who, for a fee or compensation or other type of benefit, **acts as an intermediary, negotiator, or agent between a policyholder claimant or beneficiary and that of the insurer in any manner.**

The highlighted activities are exactly what a public adjuster does. This language seems to take a clearly worded statute and injects unneeded ambiguity.

For the reasons stated above, State Farm urges the Committee to hold this bill.

Thank you for the opportunity to present this testimony.

TESTIMONY OF MARIE WEITE

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair

Friday, February 19, 2016
9:00 a.m.

SB 3064

Chair Baker, Vice Chair Kidani, and members of the Committee on Commerce, Consumer Protection, and Health, my name is Marie Weite, Assistant Vice President of Claims of First Insurance Company of Hawaii and the Law & Regulations Chair of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately thirty-six percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this bill.

With respect to Section 1 of the Bill, Hawaii Insurers Council agrees that “consumer protection is extremely important to the State.” However, Hawaii Insurers Council disagrees that “the roles of adjusters and public adjusters under the insurance code need to be amended” or that consumer protection has been hampered by the present definitions in Section 431:9-105, Hawaii Revised Statutes.

Specifically, Hawaii Insurers Council opposes that portion of Section 2 of the Bill, which proposes to add two new definitions to Section 431:9-105, Hawaii Revised Statutes – “insurance appraiser” and “insurance umpire.” Both definitions are unnecessary as they refer back to the wording of the policy. The definitions also require that the “insurance

appraiser” and “insurance umpire” be “competent and well-versed in chapter 431.” However, this requirement is not attainable, practical or good public policy. Chapter 431 refers to the entire Insurance Code, the majority of which is neither relevant nor within the understanding of even the most knowledgeable and seasoned insurance professional. Rather, depending upon the specific claim at issue, experience in the causes, assessment and valuation of the damage or loss, and potentially a host of other factors are more important. For example, when the insurer and insured cannot agree upon the resolution of a claim for roof damage, knowledge of Chapter 431 is not relevant. Instead, experience in roof construction and repair, knowledge of prevailing costs of labor and materials in Hawaii, and an understanding of the valuation and loss settlement provisions of the policy at issue are much more desirable traits.

Hawaii Insurers Council believes that a statute should not define the desirable characteristics of an “insurance appraiser” and “insurance umpire.” Rather, the parties who select their respective appraiser, and the appraisers who select the umpire to resolve their differences, are in the best position to determine the qualifications they desire in their consultants.

Hawaii Insurers Council opposes the proposal to amend the current definition of “adjuster” in Section 431:9-105, Hawaii Revised Statutes, by deleting the provision that an “adjuster”: “[d]oes not include an individual who is . . . [a] salaried employee of an insurer or salaried employee of an adjusting corporation or an association owned or controlled by an insurer.” (Page 2, lines 20-21, and Page 3, line 1, of the Bill.) Under present law, employees of insurance companies and adjusting corporations do not need to be separately licensed by the State as “adjusters” because they work under the license and supervision of their employer. A new requirement that all employees be separately licensed “adjusters” would lead to negative consequences: a reduction in staffing of claim departments and adjusting corporations as many experienced and knowledgeable adjusting personnel would no longer be authorized to adjust claims, the

resulting delays in claim processing, and, finally, prejudice to the interests of insureds and claimants.

Finally, Section 2 of the Bill proposes significant changes to the definition of “public adjuster” in Section 431:9-105, Hawaii Revised Statutes. Hawaii Insurers Council believes that the current definition is simple and clear, and no justification for the proposal has been shown. The proposed exemptions from the definition of “public adjuster” are confusing and unnecessary.

Therefore, Hawaii Insurers Council **opposes** SB3064 in its entirety and requests that it be held.

Thank you for the opportunity to testify.



Hawaii Public Adjusters

Insurance Claim Management Throughout the Pacific

Website: www.hawaiipublicadjuster.com

2020 Main Street Ste 2000
Wailuku, Hi 96793

Phone: 808-856-3041
Fax: 888-428-2352

Febraury 16, 2016 (REV1)

To: Hon. Rosalyn H. Baker
Senate Committee on Commerce, Consumer Protection and Health
Hawaii State Capitol Rooms 229

Via email to: cphtestimony@capitol.hawaii.gov

Re: **SB 3064 Testimony -SUPPORT -**

Dear CPH Committee Members,

My name is Robert Hugh Joslin and I am the President of Hawaii Public Adjusters Corp. Our family owned business is located at 2050 Main Street, in Wailuku, Hawai'i. Our firm is the only resident public adjusting firm with continuous Hawaii operations servicing our island communities. I have been licensed as a Public Adjuster by the State of Hawaii since October of 2002 pursuant to HRS Sections 431:9-201, 431:9-222 and 431:9-226. For most of my adult life, I've been involved in insurance construction work. I have been active in Hawaii on commercial development projects dating back to 1984. In 2011, I became the first and only Hawaii resident to be designated as a Certified Professional Public Adjuster ("CPPA") from the Insurance Institute of America ("The Institute"). The Institute remains the sole certifier of distinguished insurance gradations such as the Chartered Property Casualty Underwriter ("CPCU"). I also hold a professional certification from the Wind Network as an Insurance Appraiser.

As a Hawaii Public Adjuster, I submit to oversight from the State of Hawaii's Insurance Department, its Commissioner Mr. Gordon Ito and to his very dedicated staff. I am, by design, a public advocate for the Hawaii policyholder. I have a firm duty under HRS 431:9-226 to investigate for, report to and adjust on behalf of insureds (only) in as one of this state's very few resident PAs. As such, it is also my duty to uphold the integrity of this industry by notifying an insurer of any suspected fraudulent activities involving a loss. I am well-versed in nearly all facets relating to property claims. I work thru the various methodologies relating to over 50 property carriers with their differing claim handling procedures whether or not the insurer's practices are great, okay or just plain ugly.

It is with the upmost respect due this committee that I offer up these ensuing points as to why I supported the bill. It is my hope that your esteemed group will agree with my positions.

- 1) The definition changes contained in the bill will better clarify which persons should be authorized to perform work as a Hawaii Public Adjuster. Over the last few years, many of our consumers have been faced with an influx of mainland contractors posing as roofing inspectors or “consultants”. These traveling contractors, referred to as *Storm Chasers*, have been able to convince many of our elderly and bilingual citizenry that they, as insurance roofing consultants, have the ability to make a claim directly to the policyholder’s insurance carrier. They do this in order to get the homeowner to acquire the necessary funds to gain a new *free* roof thereby locking up their consulting fees. These consultants have successfully enticed many innocent homeowners into signing a high fee percentage contract that’ll kick back as much as 33% of the insurance proceeds obtained for them working over the roof claim. Here’s a recent storyline that relates to this problem.

On at least two separate occasions (Oahu’s March 9th 2012 hailstorm and the entire state’s 2015 Valentine’s Day windstorm) several of these California, Colorado and Texas roofing consultants from came to this state and began canvassing East Oahu going door to door in Kailua and Kaneohe, promoting their roofing claim schemes. Each one offered their free storm inspection services to the unsuspecting consumer and, after they’ve descend from the roof, report to the homeowner that they did indeed, discover extensive roof damage caused by the recent storm. Once shown a few phone camera pictures, the policyholder is pushed to a point of anguish causing them to hire the pitchman in order to prevent the purported impending leaks that will occur in some upcoming rainstorm. When signed up, these consultants start, either directly or indirectly, negotiating with the various insurance carriers in an effort to gain the quick work using very indiscriminate labor forces. Worse yet, some have pocketed insurance proceeds made available from the loss claiming that more money would still be needed to perform the totality of the work. Most of these occurrences have been below the various county inspectors’ radars since no permits are ever pulled and a lot of the work is said to take place on the weekends. Here at HPA, we have estimated that there have been at least 900 such mainlander “consultant” roofing claims submitted to carriers just for that single 2012 hailstorm event. Without these SB 3064 definitions in place, other consumers will fall victim to these very unscrupulous practices.

- 2) In this bill, there is a deletion to specific language (the section’s clause is written in a double negative connotation) that excludes salaried insurance industry employees from the definition of “adjuster” even though many salaried works do, in fact, perform adjusting work on a daily basis. By eliminating the exclusionary definition, these salaried adjusters will be put back under the definition of "adjuster" and thus, be regulated by the insurance department. The current wording under 431:9-105. 2(2)(C) effectively exempts ...

a salaried employee of an insurer or

*salaried employee of an adjusting corporation or
of an association owned or controlled by an insurer.*

Under the ambiguity contained in that verbiage, a rather large exemption for persons acting as adjusters is created and could, therefore, exclude an adjuster's actual culpability relating to these statues. It has been this firm's experience that most, if not all independent adjusters working as ... "*salaried employees of an adjusting corporation*" ... performing property claim work, have no concept, idea or concern over the implications and effects of our HRS 431 laws. We believe such naivety is injurious to the consumer.

- 3) The purpose of an insurance appraisal is to effectively, yet very modestly, provide for the level playing ground between the insured and the insurer. It is the simplest, easiest and fairest method to resolve the issue of damages that relate to a loss. All property policies contain an appraisal clause. If ever triggered, the clausal language in the policy dictates the minimum means by which two competent insurance appraisers (and if necessary- the insurance umpire) are to be brought into a claim's dispute. Many states have wholesale sections dedicated to the insurance appraisal arena. This state lacks any such regulations relating to insurance appraisals. Without the addition of these very basic of definitions relating to the "insurance appraiser" and "insurance umpire", the proposed statutory language contained further in the bill will have no meaning. Under current practices, any person from any place from within or beyond these Hawaiian shores, has been free to claim the title of Hawaii "insurance appraiser" or "insurance umpire" with total disregard for HRS 431 laws. This definition *vacuum* has now seeded a new cottage industry of amateurish sales reps and mainland consultants acting under the guise that they can get policyholders quick money by forgoing the claim process and proceed directly into an appraisal. Due to the lack of these proposed definitions, there are no minimums to address this unregulated area in our insurance laws. This bill will serve to address that by assisting in the protection and equality that the Hawaii consumer truly deserves.

In closing, SB 3064 should not be looked upon as some anti-insurance bill. Rather, it should be hailed as a consumer protection measure designed to alleviate the current property claim conditions in Hawaii's insurance world. That's the very reason that I give my full support.

Respectfully,

Robert Hugh Joslin

Robert Hugh Joslin- CPPA
Direct Line: 808-856-3043

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: cduncan1953@gmail.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Sunday, February 14, 2016 1:56:10 PM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Carole Small	Individual	Comments Only	No

Comments: "I support this bill. The unauthorized practice of public adjusting is of concern to me and has detrimental consequences to the businesses and families who are unknowingly subjected to it."

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: dennis@mobileprohawaii.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Sunday, February 14, 2016 5:22:31 PM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dennis J. Smith	Individual	Comments Only	No

Comments: "I support this bill. The unauthorized practice of public adjusting is of concern to me and has detrimental consequences to the businesses and families who are unknowingly subjected to it."

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: chelton.j.miyazono@gmail.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Sunday, February 14, 2016 7:21:56 PM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Chelton Miyazono	Individual	Support	No

Comments: I support this bill - defining the roles of those involved in the claims adjustment procedure protects consumers when they need that protection the most. Individuals attempting to negotiate insurance claims without possessing the appropriate licensure or knowledge is of concern to me and has detrimental consequences to the businesses of families who are unknowing subjected to it.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: plex68@gmail.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Saturday, February 13, 2016 7:37:44 PM

SB3064

Submitted on: 2/13/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher P. Arnold	Individual	Support	No

Comments: "I support this bill. The unauthorized practice of public adjusting is of concern to me and has detrimental consequences to the businesses and families who are unknowingly subjected to it."

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: joslinc@hawaii.edu
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Sunday, February 14, 2016 1:48:28 PM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
cody joslin	Individual	Support	No

Comments: I support this bill. Defining the roles of those involved in the claims adjustment procedure protects consumers when they need that protection the most. Individuals attempting to negotiate insurance claims without possessing the appropriate license or knowledge is of concern to me and has detrimental consequences to the business and families who are unknowingly subjected to it.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: franklopezmaui@yahoo.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Sunday, February 14, 2016 12:42:04 AM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Frank Lopez	Individual	Support	No

Comments: I support this bill. The unauthorized practice of public adjusting is of concern to me and has detrimental consequences to the businesses and families who are unknowingly subjected to it. /s/ Frank Lopez

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: h2ogirlha@msn.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Sunday, February 14, 2016 1:10:44 PM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
jamie pagan	Individual	Support	No

Comments: I support this bill as defining the roles of those involved in claims adjustment help to protect consumers when they have the greatest need. Individuals making claims should have proper licensure and knowledge to help protect consumers.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: kerrilee@me.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Saturday, February 13, 2016 10:58:21 PM

SB3064

Submitted on: 2/13/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kerri Lee Mitchell	Individual	Support	No

Comments: I support this bill. The unauthorized practice of public adjusting is of concern to me and has detrimental consequences to the businesses and families who are unknowingly subjected to it. Thank you, Kerri L Mitchell

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: ljoslin@hawaiipublicadjuster.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Tuesday, February 16, 2016 12:15:55 PM

SB3064

Submitted on: 2/16/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Joslin	Individual	Support	No

Comments: "I support this bill. Defining the roles of those involved in the claims adjustment procedure protects consumers when they need that protection the most. Individuals attempting to negotiate insurance claims without possessing the appropriate licensure or knowledge is of concern to me and has detrimental consequences to the businesses and families who are unknowingly subjected to it."

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Mona Arcinas	Individual	Support	No
--------------	------------	---------	----

HB 1990:

I support this bill. The unauthorized practice of public adjusting is of concern to me and has detrimental consequences to the businesses and families who are unknowingly subjected to it.

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: nora_lynn_13@hotmail.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Sunday, February 14, 2016 8:26:27 PM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Nora Mansoorian	Individual	Support	No

Comments: I support this bill. The unauthorized practice of public adjusting is of concern to me and has detrimental consequences to the businesses and families who are unknowingly subjected to it.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: pedroderguy@gmail.com
Subject: *Submitted testimony for SB3064 on Feb 19, 2016 09:00AM*
Date: Sunday, February 14, 2016 9:38:25 AM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Pedro Fernandez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



Hawaii Public Adjusters

Insurance Claim Management Throughout the Pacific

Website: www.hawaiipublicadjuster.com

2020 Main Street Ste 2000
Wailuku, Hi 96793

Phone: 808-856-3041
Fax: 888-428-2352

Febraury 12, 2016

Hon. Rosalyn Baker, Chair
Hon. Michelle Kidani, Vice Chair
And: Hon Gilbert S.C. Keith-Agaran- Senate District 5

To: Senate Commerce, Consumer Protection and Health
Hawaii State Capitol Rooms 320, 280 and 221

Via email to: senbaker@capitol.hawaii.gov
and: senkidani@capitol.hawaii.gov
and: senkeithagaran@capitol.hawaii.gov

Re: **SB3064 Testimony -SUPPORT -**

Dear Honorable Senators Rosalyn Baker, Michelle Kidani, and Gilbert S.C. Keith-Aragon,

My name is Robert Hugh Joslin and I am the President of Hawaii Public Adjusters Corp. Our family owned business is located at 2050 Main Street, in Wailuku, Hawai'i. Our firm is the only resident public adjusting firm with continuous Hawaii operations servicing our island communities. I have been licensed as a Public Adjuster by the State of Hawaii since October of 2002 pursuant to HRS Sections 431:9-201, 431:9-222 and 431:9-226. For my entire adult life, I've been involved in insurance construction work since 1976 and Hawaii commercial development projects dating back to 1984. In 2011, I became the first and only Hawaii resident to be designated as a Certified Professional Public Adjuster ("CPPA") from the Insurance Institute of America ("The Institutes"). The Institutes remain the sole certifier of other distinguished insurance gradations such as the Chartered Property Casualty Underwriter ("CPCU") designation. I also hold a professional certification from the Wind Network as a Certified Insurance Appraiser.

As a Hawaii Public Adjuster, I submit to oversight from the State of Hawaii's Insurance Department, its Commissioner Mr. Gordon Ito and to his very dedicated staff. I am, by design, a public advocate for the Hawaii policyholder. I have a firm duty under HRS 431:9-226 to investigate for, report to and adjust on behalf of insureds (only) in my role as one of this state's very few resident PAs. As such, it is also my duty to uphold the integrity of this industry by notifying an insurer of any suspected fraudulent activities involving a loss. I am well-versed in nearly all known property claim practices by which I identify the oddities that may or may not surround any given claim. I work thru the methodologies relating to over 50 various carriers with their differing claim handling procedures whether the insurer's practices are great, okay or ugly.

It is with the upmost respect due the committee, that I offer up these ensuing points as to why I supported this bill only hoping that your esteemed group will agree with my conclusions.

- 1) The definition changes contained in the bill will better clarify which entities should be authorized to perform work as a Hawaii "Public Adjuster". Over the last few years, many of our consumers have been facing an influx of mainland contractors posing as roofing inspectors or "consultants". These traveling contractors, referred to as *Storm Chasers*, have convinced many of Hawaii's elderly and dual language citizenry that they, as roofing specialist, can make a claim directly to the policyholder's insurance carrier in order for the homeowner to get an entirely new *mostly free* roof. These "consultants" have successfully enticed innocent homeowners into signing high fee percentage contracts that kick back as much as 33% of any insurance proceeds they've obtained for working over the policyholder's roof claim. This nameless storyline is an example of what's been occurring.

On at least two separate occasions (Oahu's March 9th 2012 hailstorm and the entire state's February 14th 2015 Valentine's Day windstorm), several roofing "consultants" from California, Colorado and Texas came to this state and began canvassing East Oahu going door to door in Kailua and Kaneohe promoting their claim submission tactics. Each consultant offered their free storm inspection services to these consumers and, as they descended from off their roof ladders, report to the homeowner that they did indeed, discover extensive amounts of roofing damage caused by a recent storm. Once they're shown some pictures from a phone camera, the policyholder is place in a stressful position causing them to anguish to the point that many hired the pitchman to replace the damaged roof in order to prevent the purported impending leak. When signed up, these consultants start, either directly or indirectly, negotiating with the various insurance carriers in an effort to gain the quick work using very indiscriminate labor forces. Worse yet, some have pocketed insurance proceeds made available from the loss claiming that more money would still be needed to perform the totality of the work. Most of these occurrences have been below the various county inspectors' radars since no permits are ever pulled and a lot of the work is said to take place on the weekends. We conservatively estimate that there were at least 900 such mainlander "consultant" roofing claims submitted to our carriers just for that single 2012 hailstorm. Without these SB 3064 definitions in place, other consumers may fall victim to these unscrupulous practices.

- 2) In this bill, there is a deletion to specific language (the section's clause is written in a double negative connotation) that excludes salaried insurance industry employees from the definition of "adjuster" even though many salaried works do, in fact, perform adjusting work on a daily

basis. By eliminating the exclusionary definition, these salaried adjusters will be put back under the definition of "adjuster" and thus, be regulated by the insurance department. The current wording under 431:9-105. 2(2)(C) effectively exempts ...

*a salaried employee of an insurer or
salaried employee of an adjusting corporation or
of an association owned or controlled by an insurer.*

Under the ambiguity contained in that verbiage, the language creates a rather large exemption to most persons acting as adjusters and could, therefore, exclude any adjuster's actual culpability relating to the statutes. It has been this firm's experience that most, if not all independent adjusters working as ... "*salaried employees of an adjusting corporation*" ... that perform property claim work, have no concept, idea or concern over the implications and effects of HRS 431. That must be injurious to the raw consumer.

- 3) The purpose of an insurance appraisal is to effectively, yet very modestly, provide for the level playing ground between the insured and the insurer to resolve the damages relating to a loss. All property policies contain an appraisal clause. If ever triggered, the clausal language dictates the minimum means by which two competent insurance appraisers, and if necessary the umpire, are to be brought into a disputed claim. Many states have wholesale sections dedicated to the arena of an insurance appraisal. This state lacks any such regulations. Without the addition of these very basic of definitions relating to the "insurance appraiser" and "insurance umpire", the added statutory language in the bill will have no meaning. Under current practices, any person from any place from within or beyond these Hawaiian shores has been free to claim the title of Hawaii "insurance appraiser" or "insurance umpire" with a total disregard for HRS 431. This definition vacuum has now seeded a new cottage industry of amateurish sales reps and mainland "consultants" acting under the guise that they can get quick money for policyholders by forgoing any claim work and proceeding directly to an appraisal. There are no minimums to address this unregulated area because there are no statutory definitions. This bill appears to serve that purpose by assisting in the protection and equality that the Hawaii consumer truly deserves.

In closing, SB 3064 should not be looked upon as some anti-insurance bill. Rather, it should be hailed as a consumer protection measure designed to alleviate the current property claim conditions in Hawaii's insurance world. That's the very reason that I give my full support.

Respectfully,

Robert Hugh Joslin

Robert Hugh Joslin- CPPA
Direct Line: 808-856-3043

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: pobox1468@gmail.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Wednesday, February 17, 2016 11:17:50 PM

SB3064

Submitted on: 2/17/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
RYAN JOSLIN	Individual	Support	No

Comments: If a Public Adjuster (representing a policy holder) and a Staff Adjuster (representing an insurance company) are not able to agree to a value of a loss, insurance policies (almost every single Real Property type) require the disputed amounts to be resolved by Appraisers that are retained by each party. The "Appraisal Clause" is an effort by the policy to resolve a dispute without involving the courts and their exorbitant costs. The individuals that are to be named as Appraisers (as required by the policy), need to understand the statutes that regulate the work of adjusters (HRS 431) so that the disputed matters of a claim can be resolved with competence. By not assuring this competence, CONSUMERS ARE HARMED as the Appraiser not familiar with the HRS or policy language ineffectively argues their clients position on the loss. The end result is not a resolved claim, but the insured being forced into litigation to seek resolve (The very place the Appraisal Clause is attempting to keep these cases from going). The deepest pockets tend to win regarding civil litigation and you'd be hard pressed to find deeper pockets than those in opposition to this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: suzijim@mac.com
Subject: Submitted testimony for SB3064 on Feb 19, 2016 09:00AM
Date: Sunday, February 14, 2016 8:02:15 AM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Suzanne Hobbs	Individual	Support	No

Comments: "I support this bill. The unauthorized practice of public adjusting is of concern to me and has detrimental consequences to the businesses and families who are unknowingly subjected to it."

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: tkpr76@gmail.com
Subject: *Submitted testimony for SB3064 on Feb 19, 2016 09:00AM*
Date: Sunday, February 14, 2016 9:29:06 AM

SB3064

Submitted on: 2/14/2016

Testimony for CPH on Feb 19, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Tiffany Fernandez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov