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 HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Monday, March 16, 2015
2:00 p.m.

TESTIMONY ON SENATE BILL NO. 722, S.D. 2 – RELATING TO LONG-TERM CARE INSURANCE.

TO THE HONORABLE ANGUS L.K. MCKELVEY, 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 takes no position on this bill but submits the following comment.

Requiring certified mailing of notices of lapse or termination of long-term care policies may result in increased costs to the insurer, which may be passed on to the consumer.

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

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN OPPOSITION TO SENATE BILL 722, SD 2,
RELATING TO LONG TERM CARE INSURANCE

March 16, 2015

Via e mail: capitol.hawaii.gov/submittestimony.aspx

Honorable Representative Angus L. K. McKelvey, Chair
Committee on Consumer Protection and Commerce
State House of Representatives
Hawaii State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

Chair McKelvey and Committee Members:

Thank you for the opportunity to testify in opposition to SB 722, SD 2, relating to Long Term Care Insurance.

Our firm represents the American Council of Life Insurers ("ACLI"), a Washington, D.C., based trade association with more than 284 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Two hundred nineteen (219) ACLI member companies currently do business in the State of Hawaii; and they represent 92% of the life insurance premiums and 89% of the annuity considerations in this State.

ACLI strongly opposes the proposed bill for the reasons set forth below.

Section 1 of the Bill:

With regard to the information included in this section regarding the "tragic turn of events faced by an elderly couple in Virginia", we encourage the Committee to secure the facts of this case from the Virginia Bureau of Insurance which reviewed the complaint submitted by the son and the information provided by the insurance company under its complaint resolution process.

Section 2 of the Bill:

Instead of delivery of the lapse/cancelation notice by first class mail, SB 722, SD 2, proposes to require that the insurer send the notice to the insured and the insured's alternate designee(s) by "certified mail or commercial delivery service".

ACLI opposes the proposed change.

SB 722 SD 2 is a bill in search of a problem.

To date no testimony has been submitted complaining that a Hawaii resident's long term care policy was cancelled as a result of the insured's (or alternate designee's) failure to receive a cancellation notice.

The need for delivery of the notice by certified mail or commercial delivery in this State has not, therefore, been explained or demonstrated by the bill's sponsor or anyone else.

Moreover, delivery of a lapse or cancelation notice even by certified mail or commercial delivery does not guarantee that those who receive it will in fact act in a timely manner.

Insurance companies want to sell long term care insurance policies and keep them on their books. Companies have, therefore, an economic incentive in making certain that the notice is in fact mailed to the insured (and the insured's alternate designee) to prevent an unintended lapse or cancellation of the policy.

Hawaii's current law is based on the NAIC Long-Term Care Insurance Model Regulation (the "Model"). The Model requires that the lapse and termination notice be sent by first class US mail. No state has yet enacted laws requiring that the notice be sent solely by certified mail or commercial delivery – and for good reasons.

Unlike 1st class USPS mail process of "print, fold, insert, meter and mail" delivery by certified mail requires manual intervention which is costly and takes longer to process which delays delivery. Costlier still is use of a commercial delivery service, such as UPS or FEDEX.

Further, if the insured (or his/her alternate designee) is not present to receive the notice sent by certified mail the notice is held by the post office for pick-up. In that event, this method of delivery may actually make it more time consuming and difficult for the insured to receive the notice.

The problem with the unintended lapse notifications is not how lapse notifications are mailed; the problem is instead with the insured and secondary addressees not fulfilling their expected role in preventing policy lapse. Neither the insurance company nor the State's Insurance Division have regulatory leverage over the insured or secondary addressees – and no one can force them to open up the mail, read it and take appropriate action.

For the reasons stated above, ACLI respectfully opposes SB 722, SD 2, and requests that this Committee defer passage of this bill.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

Oren T. Chikamoto
1001 Bishop Street, Suite 1750
Honolulu, Hawaii 96813
Telephone: (808) 531-1500
Facsimile: (808) 531-1600
E mail: otc@chikamotolaw.com

America's Health
Insurance Plans

601 Pennsylvania Avenue, NW
South Building
Suite Five Hundred
Washington, DC 20004

202.778.3200
www.ahip.org

AHIP

March 16, 2015

Rep. Angus L.K. McKelvey, Chair
Committee on Consumer Protection and Commerce
State Senate
Hawaii State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

RE: Senate Bill 722 Relating to Long-Term Care Insurance Lapse Notices & Termination

Via e mail: capitolhawaii.gov/submittestimony.aspx

Dear Senator McKelvey and Committee Members:

On behalf of America's Health Insurance Plans (AHIP), thank you for the opportunity to submit our concerns with SB 722 as amended, relating to long-term care insurance premium lapse notification and reinstatement. We write to express our strong concerns with the legislation as set forth below.

AHIP is the national trade association representing the health insurance industry. AHIP's members provide health and supplemental benefits to more than 200 million Americans through employer-sponsored coverage, the individual insurance market, and public programs such as Medicare and Medicaid.

SB 722 amends current law by requiring that notice of a lapse of coverage or cancellation to be sent by certified mail or commercial delivery service to the policyholder. This requirement places an undue administrative burden on the company. Moreover, delivery of a lapse or cancellation notice (even by certified mail or by commercial delivery) does not guarantee that those who receive it will, and act in a timely manner. We fully support current law, which is based upon the *NAIC Long-Term Care Insurance Model Regulation* (NAIC Model) which requires lapse and termination notices be given by first class United States mail.

The NAIC Model reflects a broad consensus regarding the appropriate balance of insurer efforts to notify insurers regarding policy lapses and grace periods. We respectfully submit that SB 722 would upset that balance. For the reasons stated above, AHIP opposes SB 722.

Sincerely,

Amanda K. Matthiesen

Amanda K. Matthiesen

AARP
Real Possibilities

March 16, 2015

House Committee on Consumer Protection and Commerce
Representative Angus McKelvey, Chair

Re: **SB 722, SD2, RELATING TO LONG-TERM CARE INSURANCE**

Chair McKelvey, Vice Chair Woodson, and members of the committee:

AARP is a membership organization of people fifty and over with nearly 150,000 members in Hawaii alone. AARP advocates for issues that matter to Hawaii families, including the high cost of long-term care; access to affordable, quality health care for all generations; providing the tools needed to save for retirement; and serving as a reliable information source on issues critical to people over the age of fifty.

AARP Hawaii supports SB 722, SD 2, Relating to long-term care insurance. We support the stated purpose of this bill, which is to help Hawaii's kupuna prevent lapses or terminations for their long-term care insurance ("LTCI") policies. This bill would require thirty-day termination notices to be sent by certified mail or commercial delivery service instead of first-class mail.

We believe that state governments should improve the quality of LTCI by enacting the strongest possible consumer protection standards. LTCI plays an important role in financing long-term care in our state, and individuals may faithfully maintain an LTCI policy for many years before an unintentional lapse in payment occurs. It is in the best interests of both the state's broader long-term care financing system, and, more importantly, the individuals impacted to establish strong consumer protections for cases of unintentional lapse.

We believe this bill will help to achieve these goals.

PETER L. FRITZ
200 NORTH VINEYARD BOULEVARD, #430
HONOLULU, HAWAII 96817
TELEPHONE (SPRINT IP RELAY): (808) 568-0077
E-MAIL: PLFLEGIS@FRITZHQ.COM

HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Testimony on S.B. 722 SD 2
Hearing: March 16, 2015

(RELATING TO LONG-TERM CARE INSURANCE)

Chair McKelvey, Vice Chair Woodson and members of the Committee. My name is Peter Fritz. I am testifying **in support** of this bill.

This purpose of this bill is to provide proof that a notice of termination for a Long-Term Care Insurance Policy ("LTCI") has been sent to all designated persons by requiring that the notice be sent by certified mail or commercial delivery service instead of first-class mail. This will provide proof from an independent party of compliance with Hawaii law.

- To terminate a LTCI policy a notice must be mailed to the insured and any other party designed to receive the notice. §431:10H-209, Hawaii Revised Statutes.
- If there is a question about whether a notice of termination was mailed to the insured and any other party designated to receive the notice, the only proof may be a computer printout from the insurance company.
- Requiring that the notice be sent by certified mail or by a commercial delivery service such as UPS or FedEx provides for an independent record of compliance with §431:10H-209, HRS. It **provides additional protection** for the insurance company, the consumer and the insurance division because:
    - For **insurance companies,** it provides independently verifiable evidence that the notice was mailed to all required parties in the form of a tracking number from UPS, FedEx or USPS certified mail that can be provided to the consumer as proof that requirements of the law were followed by the insurance company.
    - For **kupuna and their adult children**, the tracking number from a third party is proof that the notice of termination was sent to all required parties. It is more substantial proof than a printout from the insurance company's computer.
    - For the **insurance division**, proof of compliance, by a record maintained by an independent third party, can be given substantial weight as evidence of compliance with §431:10H-209 if there is a dispute about whether a notice was mailed to all required parties.
- **Convenience for the insurance company.** A trip to the Post Office is not required because shipping documents for commercial carrier carriers such as UPS and FedEx can be created on a desktop computer and a pick up scheduled at the insurance company's office.

- LTCI plays an important role in financing long-term care. It is in the best interests of both the state's broader long-term care financing system, and, more importantly, the individuals impacted to establish strong consumer protections for cases of unintentional lapse. State governments should improve the quality of LTCI policies by enacting the strongest possible consumer protection standards.

- **It is impossible to know how much of a problem inadvertent lapses in coverage have been in Hawaii by looking solely at whether complaints have been filed with the insurance division.** If a consumer showed an attorney the computer printout provided by the insurance company as proof that a notice was mailed, it is likely that the attorney would advise the consumer that it would be a difficult action because you can't question a computer. Accordingly, the kupuna might assume that filing a complaint with the insurance division would be a futile act.

I respectfully request your support of this bill which carefully protects the needs of senior citizens who, in good faith, are paying very large premiums in relation to their fixed incomes, by not allowing the carriers to cancel a policy with just a token routine notice sent via US mail.

Thank you for the opportunity to testify.

Respectfully submitted,

Peter L. Fritz