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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Friday, March 31, 2017  
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 953, S.D. 2, H.D. 1 – RELATING TO INSURANCE.**

TO THE HONORABLE SYLVIA LUKE, 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 strongly supports this Administration bill.

The Department believes the various provisions proposed in this bill will update and improve Hawaii’s Insurance Code in a number of areas. Specifically, this measure will do the following:

SECTION 1 of the bill proposes a new section to be placed in article 10C, to allow third-party claimants to claim the general excise tax and certificate of ownership fee in total loss claims, similar to that currently allowed for first party claimants in section 431:10C-312.

SECTION 2 of the bill conforms fraud monetary amounts with the penal code in changing the dollar amount of the benefits, recovery, or compensation obtained or attempted to be obtained for a class C felony and misdemeanor, by amending section 431:2-403(b).

**Senate Bill No. 953, S.D. 2, H.D. 1**  
**DCCA Testimony of Gordon Ito**  
**Page 2**

SECTIONS 3 and 4 of the bill require insurers seeking a certificate of authority to submit a Uniform Certificate of Authority Application to the Insurance Division and to clarify that the insurer's name must comply with sections 431:3-202(b) and 431:4-104(d)(1), by amending sections 431:3-212 and 431:3-212.5(b).

SECTION 5 of the bill establishes application and service fees for motor vehicle self-insurers by amending section 431:7-101(a).

SECTION 6 of the bill allows the Insurance Commissioner to issue a declaration prior to an event that may require the use of nonresident adjusters, and to not require a governor's proclamation before issuing the declaration, by amending section 431:9-201(b). Currently, the Commissioner must wait until a catastrophe has occurred, which typically the Governor proclaims. This amendment will allow the Commissioner to proactively trigger the arrival and assistance of nonresident adjusters in the State ahead of an emergency.

SECTIONS 7, 8, and 9 of the bill conform article 9A to the National Association of Insurance Commissioners' Producer Licensing Model Act ("PLMA") by eliminating producer-to-producer appointments and amending the definition of "terminate" in sections 431:9A-102, 431:9A-114, and 431:9A-115. In 2001, when Hawaii adopted the NAIC's Producer Licensing Model Law to conform with the uniformity and reciprocity requirements, we deviated in one area by retaining the ability of agents to appoint other agents. This was a carry over from the old general agency scheme, as requested by insurance agents. The Division developed a computer system to accommodate this difference which is a legacy system over 12 years old. Deleting producer-to-producer appointments moves the Insurance Code to uniformity with other states' statutes and also provides options for the Division in eventually moving to another computer system to replace the current one.

The Division respectfully requests deletion of section 431:10C-(d) in Section 9, page 15, lines 13 to 21, to page 16, lines 1 to 7, as this language does not conform with the PLMA, and to re-letter the remaining subsections on page 16, line 8, page 18, line 4, and page 21, line 8.

SECTION 10 of the bill requires certain costs and expenses incurred by the Commissioner during supervisory proceedings be paid by or reimbursed from the assets of the insurer by amending section 431:15-201. This requirement is similar to that in section 431:15-303(a) for rehabilitation proceedings.

SECTION 12 of the bill has a “defective” effective date and we respectfully request that the Act take effect on July 1, 2017, provided that sections 7, 8, and 9 shall take effect on January 1, 2019.

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

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
COMMENTING ON SB 953, HD 1, RELATING TO INSURANCE

March 31, 2017

Via e mail: [fintestimony@capitol.hawaii.gov](mailto:fintestimony@capitol.hawaii.gov)

Honorable Representative Sylvia Luke, Chair  
Committee on Finance  
State House of Representatives  
Hawaii State Capitol, Conference Room 308  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Luke and Committee Members:

Thank you for the opportunity to comment on SB 953, HD 1, relating to Insurance.

Our firm represents the American Council of Life Insurers (“ACLI”), a Washington, D.C. – based trade association with approximately 290 member companies operating in the United States and abroad. ACLI advocates in state, federal, 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 94 percent of industry assets, 93 percent of life insurance premiums, and 97 percent of annuity considerations in the United States. Two hundred twenty-two (222) ACLI member companies currently do business in the State of Hawaii; and they represent 96% of the life insurance premiums and 99% of the annuity considerations in this State.

SB 953, HD 1, in part amends Hawaii’s law relating to producer licensing as set forth in Article 9A of Hawaii’s Insurance Code.

Hawaii’s producer licensing law adopts the National Association of Insurance Commissioners (“NAIC”) Producer Licensing Model Act (the “Model Act”).

Consistent with the Model Act Hawaii’s producer licensing law currently requires only insurers to notify the Insurance Commissioner of a termination of a producer’s appointment, including specific requirements for notification of terminations for cause.

Prior to the hearing of this bill by the House Consumer Protection Committee Section 9 of the bill (SB 953, SD2) proposed to amend HRS §531:9A-115 to require a producer who terminates his or her appointment with an insurer to notify the Commissioner of the termination within 30 days of its effective date.

In its prior testimony before the Consumer Protection Committee ACLI submitted that the required termination notice should be removed from the bill because: (1) the proposed provision may cause confusion on the part of the producer as under current law the obligation for providing

notice had been solely on the appointing insurer, not the producer; (2) if the producer fails to provide the proposed notice of termination required under SB 953 under Hawaii's law the Commissioner may (among other things) deny, suspend revoke, or refuse to renew the producer's license; (3) there is no apparent purpose and justification for this amendment; and (4) the proposed termination notice is not required by any other state in country and constitutes a deviation from the Model Act.

Accordingly, the proposed amendment was removed from the bill.

Nevertheless, it appears that the provision which details the required actions to be taken by the terminating producer and actions the terminated insurer may take in response to the producer initiated termination was inadvertently retained in the bill.

ACLI respectfully requests, therefore, that the provisions in Section 9 of the bill, beginning on page 15, at lines 13 to 21, and which continues on page 16, at lines 1 through 7, be removed as set forth below:

...

~~(d) A producer initiating the termination is subject to the following:~~

~~(1) Within fifteen days after making the notification required by subsection (a), the producer shall mail a copy of the notification to the insurer at the insurer's last known address.~~

~~(2) Within thirty days after the insurer has received the original or additional notification, the insurer may file written comments concerning the substance of the notification with the commissioner. The insurer, by the same means, shall simultaneously send a copy of the comments to the producer, and the comments shall become part of the commissioner's file and shall accompany every copy of a report distributed or disclosed for any reason about the insurer as permitted under subsection (f).~~

Again, thank you for the opportunity to comment on SB 953, HD 1.

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# SanHi Government Strategies

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DATE: March 30, 2017

TO: Representative Sylvia Luke  
Chair, Committee on Finance  
*Submitted via Capitol Website*

RE: **S.B. 953, S.D. 2, H.D. 1 – Relating to Insurance**  
**Hearing Date: Friday, March 31, 2017, 2:00 p.m.**  
**Conference Room: 308**

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Dear Chair Luke and Members of the Committee on Finance:

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 would like to provide **comments** on S.B. 953, S.D. 2, H.D. 1, relating to insurance, which makes various amendments to the Insurance code.

USAA supports the amendments made in Section 1 of the H.D.1 version of the bill. Section 1 of the bill was amended to eliminate the notice requirement for the procedures for payment of general excise tax and the certificate of ownership fee in total loss claims. This amendment was supported by other insurance stakeholders and agreed to by the Insurance Commissioner.

For these reasons, USAA supports passing this bill in its current form. Thank you for the opportunity to provide comments on this bill.

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



HAWAII

House Committee on FINANCE

Hearing Date: March 31, 2017

Time: 2:00 pm

**LATE**

**RE: SB 953, SD2, HD1 – Relating to Insurance**

Chair Luke, Vice Chair Cullen and Members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii represents life insurance producers/agents across Hawaii who primarily market life insurance, annuities, long term care insurance and disability income insurance products.

**We are limiting our comments in SB 953, SD2, HD1, to Section 9 (d) on pages 15 to 16, relating to the “producer (agent) initiating termination” from the insurer.**

Section 9 outlines the termination process, the required reporting time frames to the Insurance Commissioner, other requirements for the producer initiating the termination, and immunity from civil liability for notification of termination.

We are **opposed to Section 9 (d) (1) and (2)**, when the producer terminates an appointment, employment or contract with an insurer and the notification to the Commissioner has to be done within thirty days. This does not conform to the National Association of Insurance Commissioners “Producer Licensing Model Act”. Hawaii will be the only state to require the producer to notify the Insurance Commissioner of the termination.

In the House CPC Committee, the first sentence of §431:9A-115(a) in the SD2 was amended by deleting “producer initiated termination”. The current HD1 begins with §431:9A-115(a) in Section 9 on pages 12 and 13, with the insurer terminating “the appointment, employment, contract or other insurance business relationship...”. The CPC Committee did not delete Section 9(d) (1) and (2), which may have been inadvertent.

Currently the insurer notifies the Insurance Commissioner of the appointment termination. Section 9(d) will now require the producer who terminates the appointment to also notify the Insurance Commissioner and the insurer both in writing. A system is already in place with the insurer notifying the Insurance Commissioner of the termination. We don’t understand the purpose of this section and not aware of problems with the termination notices from insurers since producers notify the insurer of his/her appointment termination. Insurers process termination notices whereas a producer will do so infrequently.

Thank you for allowing to us to share our views.

Cynthia Takenaka, Executive Director

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