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TO THE SENATE COMMITTEE WAYS AND MEANS

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Thursday, February 23, 2017  
1:35 p.m.

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

TO THE HONORABLE JILL N. TOKUDA, 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, which is a companion to H.B. 1087.

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. As the purpose of Section 1 is identical to Section 10 of the bill, Section 10 should be deleted.

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).

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 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. Hawaii is the only state that has a "producer-to-producer" appointment law. 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.

SECTION 10 of the bill allows third-party claimants to claim the general excise tax and certificate of ownership fee in total loss claims by amending section 431:10C-

312. As the purpose of both Secs. 1 and 10 are identical, Section 10 of the bill may be deleted.

SECTION 11 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.

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

## TESTIMONY OF MARIE WEITE

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COMMITTEE ON WAYS AND MEANS  
Senator Jill N. Tokuda, Chair  
Senator Donovan M. Dela Cruz, Vice Chair

Thursday, February 23, 2017  
1:35 p.m.

### **SB 953, SD1**

Chair Tokuda, Vice Chair Dela Cruz, and members of the Committee on Ways and Means, 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. The 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 forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council supports Section 1 of the bill with amendments and opposes Section 10 of the bill.

Members of Hawaii Insurers Council have been working with the Insurance Commissioner and State Farm and have agreed to the following language which should replace Section 1 of this bill. We continue to work on the bill and there may be further amendments suggested, but we assure the Committee that HIC, State Farm, and the Commissioner's office are collaborating on appropriate language.

Chapter 431, Article 10C, Part I, Hawaii Revised Statutes, is amended to add a new section to be appropriately numbered and to read as follows:

%Sec. 431:10C- Payment of general excise tax and certificate of ownership fee on third party claims. (a) When a motor vehicle insurer settles a total loss motor vehicle damage liability claim with a third-party claimant, the insurer shall pay the applicable general excise tax and certificate of ownership fee as follows:

(b) If the third-party claimant cannot substantiate the purchase and the payment of the general excise tax and certificate of ownership fee by submitting to the insurer appropriate documentation within thirty-three days after the receipt of settlement, the insurer shall not be required to reimburse the third-party claimant for the tax or fee.

(c) In lieu of the procedure in subsection (a), the insurer may directly pay the required general excise tax and certificate of ownership fee to the third-party claimant at the time of settlement.

(d) An insurer's obligation to reimburse a third-party claimant for the applicable general excise tax and certificate of ownership fee as set forth in this section shall be subject to the property damage liability limit of the policy.+

Section 10 of the bill is unnecessary because of the language in Section 1, and should be deleted from the bill.

Thank you for the opportunity to testify.



An Independent Licensee of the Blue Cross and Blue Shield Association

February 23, 2017

The Honorable Jill N. Tokuda, Chair  
The Honorable Donovan M. Dela Cruz, Vice Chair  
Senate Committee on Ways and Means

Re: SB 953, SD1 – Relating to Insurance

Dear Chair Tokuda, Vice Chair Dela Cruz and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 953, SD1, which amends various section of the Insurance Code. HMSA supports the intent of this Bill, but we do have a concern about certain specific amendments, and we are working with the Insurance Division to clarify this concern.

**Section 431:9A-102 (page 9, lines 3-4); Section 431:9A-114 (page 9, lines 11-15, and 18-19; page 10, lines 2-3, 11, 13, 16, and 17); Section 431:9A-115 (page 11, lines 4-9, 14-15; page 12, lines 3-4, 6-7, 10-13, 16-17, 20-21)**

These three sections of the Bill seek to conform the statutes to the NAIC's Producer Licensing Model Act. Under the current law, an individual insurance broker may be appointed either by the insurer itself, or by a brokerage agency with whom the insurer contracts. The Bill seems to change the law such that only the insurer would have the authority to appoint brokers.

This could significantly impact how HMSA does business with regard to our Akamai Advantage (AA) line of business. HMSA contracts with several brokerage agencies that in turn appoint individual brokers to sell our product. This Bill may be read to require HMSA to contract directly with the individual brokers, rather than with the brokerage agency, potentially resulting in a considerable amount of additional administrative burden each year.

Thank you for allowing us to share our concern on SB 502, SD1. As this measure progresses, we hope we can address this concern.

Sincerely,

Mark K. Oto  
Director, Government Relations