



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-NINTH LEGISLATURE
Regular Session of 2017

Friday, March 17, 2017
2:00 p.m.

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

TO THE HONORABLE ROY M. TAKUMI, 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. Based on discussions and agreements with parties, we respectfully
request the following amendment to Section 1, page 1, line 9:

“ownership fee, subject to section 663-31; provided that if the third-party
claimant cannot”

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Page 2

We would further request deletion of section 431:10C- (c) in Section 1, page 2, lines 3 to 6, as this subsection imposes a disclosure duty on insurers to individuals that insurers have no contractual relationship with.

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 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 IN
OPPOSITION TO S. B. 953, SD 2, RELATING TO INSURANCE

March 17, 2017

Via e mail: cpctestimony@capitol.hawaii.gov

Honorable Representative Roy M. Takumi, Chair
Committee on Consumer Protection and Commerce
State House of Representatives
Hawaii State Capitol, Conference Room 329
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Takumi and Committee Members:

Thank you for the opportunity to testify in opposition to SB 953, SD 2, 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, SD 2, 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.

However, section 9 of the bill would now 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.

The proposed amendment may cause confusion on the part of the producer as under current law the obligation for providing notice, as previously stated, has been solely on the appointing insurer, not the producer.

As a result, insurers already have a system in place. Insurers know, therefore, what form to use, where to find it, how to correctly complete the form and do so in a timely manner. An individual producer, on the other hand, (for whom a termination is not an everyday occurrence) is much more likely not to be aware of the required actions when he or she terminates his or appointment with an insurer.

If the producer fails to provide the proposed notice required by SB 953, SD 2, under Hawaii's law the Commissioner may (among other things) deny, suspend revoke, or refuse to renew the producer's license.

ACLI submits that there is no apparent purpose and justification for this amendment and its provisions deviate from those in the Model Act.

Accordingly, ACLI opposes the proposed amendment.

Again, thank you for the opportunity to testify in opposition to SB 953, SD 2.

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
E mail: otc@chikamotolaw.com

TESTIMONY OF ALISON UEOKA

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

Friday, March 17, 2017
2:00 p.m.

SB 953, SD2

Chair Takumi, Vice Chair Ichiyama, and members of the Committee on Consumer Protection & Commerce, my name is Alison Ueoka, President of the 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.

Hawaii Insurers Council, the Insurance Commissioner, State Farm, and USAA have agreed to the following language which we respectfully request replace Section 1 of this bill. These changes delete an unnecessary disclosure provision and allow comparative negligence for the payment of GET in a total motor vehicle loss claim.

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, subject to section 663-31; provided that 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.

(b) 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.

(c) 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."

Thank you for the opportunity to testify.



An Independent Licensee of the Blue Cross and Blue Shield Association

March 17, 2017

The Honorable Roy M. Takumi, Chair
The Honorable, Linda Ichiyama Vice Chair
House Committee on Consumer Protection and Commerce

Re: SB 953, SD21 – Relating to Insurance

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 953, SD2, which amends various section of the Insurance Code. HMSA supports the intent of this Bill.

In previous testimonies on this measure, we had expressed concern that certain sections related to the amendment to the producer licensing statute may impact the manner in which we contract for broker services. We have had the opportunity to work with the Insurance Division, and we truly are appreciative of their clarifying the Bill's provisions. These discussions have allayed those concerns, and we are supportive of the Bill's intent.

Thank you for allowing us to testify on SB 953, SD2. .

Sincerely,

Mark K. Oto
Director, Government Relations



HAWAII

House Committee on Consumer Protection & Commerce

Hearing Date: March 17, 2017

Time: 2:00 pm

RE: SB 953, SD2 – Relating to Insurance

Chair Takumi 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 to the provisions in SB 953, SD2 – Section 7 on page 11, relating to the definition of “terminate”; Section 8 on pages 11 to 13, relating to appointments; and Section 9 from pages 13 to 22 relating to notification of termination.

Sections 7 and 8 will change the way producers are appointed and terminated in Hawaii. This measure will adopt the NAIC Producer Licensing Model Act. Our current system is an anomaly in the country since we are **currently able to appoint producer** (an individual or an insurance agency) **to producer and insurer to producer**.

SB 953, SD2, will allow for **only insurer to producer** appointments and repeal all “producer to producer” appointments by amending the definition of “terminate” in Section 7. Prior to the enactment of the producer licensing law that was passed in 2001, Hawaii had a 3 tier system for insurance licenses. Producer to producer appointments were allowed in the new 2001 appointment scheme, along with insurer to producer appointments so that all Hawaii appointments could be located on the Insurance Division’s website.

Section 8 outlines the appointment process, the required reporting time frames to the Insurance Commissioner, and the appointment fee. 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.

After further discussions, **we are now opposed to Section 9** on page 13, 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 is **not** conforming to the NAIC model. Currently the insurer notifies the Insurance Commissioner of the appointment termination. Section 9 will now require the producer who terminates the appointment to notify the Insurance Commissioner and the insurer. A system is already in place with the insurer notifying the Insurance Commissioner. We don’t understand the purpose of this section since producers already have to notify the insurer of his/her appointment termination. Insurers process termination notices all the time whereas a producer will do so infrequently and may not be aware of the required termination process.

Thank you for allowing to us to share our views.

Cynthia Takenaka, Executive Director

SanHi Government Strategies

a limited liability law partnership

Gary M. Slovin
Mihoko E. Ito

c/o Ashford & Wriston • 999 Bishop Street, Suite 1400
Honolulu, Hawaii 96813
(808) 539-0400
slovinito@awlaw.com

gslovin@awlaw.com
mito@awlaw.com

DATE: March 16, 2017

TO: Representative Roy M. Takumi
Chair, Committee on Consumer Protection & Commerce
Submitted via CPCtestimony@capitol.hawaii.gov

RE: **S.B. 953, S.D. 2 – Relating to Insurance**
Hearing Date: Friday, March 17, 2017, 2:00 p.m.
Conference Room: 329

Dear Chair Takumi and Members of the Committee on Consumer Protection & Commerce:

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, relating to insurance, and supports the comments set out in the testimony of the Hawaii Insurers Council regarding §431:10C- (c). USAA is generally in support of the procedure described in the bill for the payment of general excise tax and the certificate of ownership fee in the case of a third-party claim when an insurer settles such a claim for a total loss of a motor vehicle. However, USAA is concerned about the notice requirement set out in §431:10C- (c). Since the insurer is already required to make the specified payments, there is no significant consumer benefit, but the section does create potential confusion with regard to the third party and first party claimants. For that reason and other reasons noted in the testimony of the Hawaii Insurers Council, USAA respectfully requests that §431:10C -(c) of the bill be deleted.

Thank you for the opportunity to provide comments on the measure.

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