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TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Tuesday, February 28, 2017  
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 894, H.D. 1 – RELATING TO 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 opposes this bill, which is a companion to S.B. 1237, and provides the following comments.

This bill creates an exemption for individuals soliciting insurance for property stored at a self-service storage facility, or property that is in transit during the term of the self-storage facility rental agreement, from obtaining a license as an insurance producer provided certain conditions are met.

Chapter 431 of the Hawaii Revised Statutes requires appropriate licensure for any individual selling, soliciting, or negotiating insurance. The limited exceptions to the licensing requirement are for those engaged in peripherally related insurance activities that do not involve selling, soliciting, or negotiating insurance. The National Association of Insurance Commissioners’ Producer Licensing Model Act also does not provide for any exemption from licensure for individuals selling, soliciting, or negotiating contacts of insurance, nor is there any exemption for individuals selling only property insurance at self-storage facilities.

The bill also presents consumer protection concerns. Allowing unlicensed individuals to solicit insurance, answering property related insurance questions without proper product training, licensure, and regulatory oversight for handling of funds or misconduct, may result in harm to consumers who believe these individuals are knowledgeable about coverage and if the insurance is appropriate for their particular needs. The individual soliciting insurance should be a licensed producer who has general knowledge and sells homeowner insurance, renter insurance, vehicle insurance, watercraft insurance, or other types of property coverage, and can answer renters' questions regarding appropriate coverage and liability. The offering of insurance from a particular insurer at a self-storage facility may also raise questions as to the motivations of, or benefits to, the self-storage facility from sales of insurance.

The creation of an exemption for individuals soliciting insurance for property stored at self-storage facilities, or in transit during the rental agreement period, will not increase the availability of self-storage insurance. Self-storage insurance may currently be purchased from property and casualty insurers through existing licensed producers. In addition, unlicensed individuals would be selling the same insurance that licensed producers would be selling from the same insurers.

We thank the Committee for the opportunity to testify on this matter.



**LATE**

**TESTIMONY ON H.B. NO. 894 House Draft 1  
RELATING TO INSURANCE**

HOUSE OF REPRESENTATIVES  
COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
Representative Angus L. K. McKelvey, Chair  
Representative Linda Ichiyama, Vice Chair

Tuesday, February 28, 2017, 2:00 p.m.  
Conference Room 329  
State Capitol  
415 South Beretania Street

To Representative Angus L. K. McKelvey, Chair; Representative Linda Ichiyama, Vice Chair; and members of the House Committee on Consumer Protection & Commerce:

My name is Timothy Dietz, President and Chief Executive Officer of the Self Storage Association (SSA), the official trade organization of the U.S. and international self-service storage industry representing the industry's 49,000 facilities, including a majority of the storage facilities in the islands.

**The SSA strongly supports House Bill No. 894 House Draft 1 (HB894 HD1).**

The purpose of this Bill is to provide clarity with respect to the exemption from the insurance producer licensing requirements for self-service storage facility operators and their employees who assist in the procurement of insurance that covers tenant-renters for loss of, or damage to, their property stored at a self-service storage facility, provided that specific requirements are met.

Generally, more than half of self-service storage tenant-renters are in transition, or live in small rental dwellings. The self-service storage industry is built on month-to-month leases with the average stay in a self-service storage facility being between 6 and 9 months depending on the region. Currently, tenant-renters who store their property at a self-service storage facility have limited options in terms of accessing insurance for their stored property. In this regard, not all tenant-renters of self-service storage have homeowner's or renter's insurance that might cover loss of stored property, nor is there ready access to a general agent that might sell such insurance, since in the latter case, the nature, relatively low cost, and corresponding low commission revenue of this type of insurance does not make it attractive for general insurance agents to pursue on a one-off basis.

By allowing self-service storage operators to facilitate a tenant-renter's procurement of insurance covering loss of, or damage to, their stored property, tenant-renters will have access to tenant-renter property insurance that is better suited to match the month-to-month dynamics of the self-service storage industry, since the consumer will be able to procure such insurance at the point of rental of the self-service storage unit.

Because this bill requires certain disclosures and procedures that self-service storage operators must adhere to when facilitating the tenant-renter's procurement of the tenant-renter's property insurance, tenant-renters will be better informed when deciding to obtain this insurance.

There are currently 23 states that have implemented legislation that either allows for a limited lines producer license for self-service storage facility operators or an exemption from licensing. Although the self-service storage industry is relatively still in its infancy, about 40 years old, the industry is booming. The primary revenue center of these businesses, 85 percent of which are small businesses, is and always will be the rental of self-service storage units, not the sale of insurance. However, the SSA believes that there should be a convenient and effective means for consumers to have access to insurance coverage for their stored goods.

The SSA respectfully suggests that aspects of the bill be amended so as to clarify the intent of the bill and the parameters pursuant to which exemption from licensure will be allowed, as illustrated in the attached proposed House Draft 2.

Again, the Self Storage Association **strongly supports HB894 HD1**. Thank you for this opportunity to submit testimony.

Respectfully submitted:  
Timothy Dietz, President and CEO  
Self-Storage Association

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# A BILL FOR AN ACT

RELATING TO INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that self-service storage  
2 facilities offer customers stored property insurance as an  
3 affordable insurance option if those customers do not have a  
4 homeowners' or renters' insurance policy. Stored property  
5 insurance policies typically insure the contents within a  
6 storage unit located at a storage facility.

7           The legislature also finds that many of the customers of  
8 self-service storage facilities do not have homeowners' or  
9 renters' insurance policies and are unlikely to seek insurance  
10 from the traditional insurance market for their storage facility  
11 unit. Moreover, the generally short-term and low-cost nature of  
12 a storage unit rental provides little economic incentive for  
13 insurance companies to pursue stored property insurance  
14 customers on a regular basis. This makes it difficult for  
15 individuals wishing to purchase insurance to protect the value  
16 of their stored property. Affording individuals the opportunity  
17 to purchase insurance at the point of rental will provide a more

1 accessible means to obtain optional affordable coverage for  
2 their stored property.

3 The purpose of this Act is to provide clarity with respect  
4 to the exemption from the insurance producer licensing  
5 requirements for self service storage facility operators and  
6 their employees who assist in the procurement of insurance that  
7 covers tenant renters for loss of, or damage to, their property  
8 stored at a self service storage facility, provided that  
9 specific requirements are met.

10 SECTION 2. Section 431:9A-104, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) A license as an insurance producer shall not be  
13 required of the following:

14 (1) An officer, director, or employee of an insurer or of  
15 an insurance producer; provided that the officer,  
16 director, or employee does not receive any commission  
17 or remuneration on policies written or sold to insure  
18 risks residing, located, or to be performed in this  
19 State and:

20 (A) The officer, director, or employee's activities  
21 are executive, administrative, managerial,

1           clerical, or a combination of these and are only  
2           indirectly related to the sale, solicitation, or  
3           negotiation of insurance

4           (B) The officer, director, or employee's functions  
5           relate to underwriting, loss control, inspection,  
6           or the processing, adjusting, investigating, or  
7           settling of a claim on a contract of insurance;  
8           or

9           (C) The officer, director, or employee is acting in  
10          the capacity of a special agent or agency  
11          supervisor, assisting insurance producers where  
12          the person's activities are limited to providing  
13          technical advice and assistance to licensed  
14          insurance producers and do not include the sale,  
15          solicitation, or negotiation of insurance;

16          (2) A person who secures and furnishes information  
17          regarding group life insurance, group property and  
18          casualty insurance, group annuities, group or blanket  
19          accident and health or sickness insurance, for the  
20          purpose of enrolling individuals or issuing  
21          certificates under such plans, or otherwise assisting

1 in administering the plans, or who performs  
2 administrative services related to mass marketed  
3 property and casualty insurance, where no commission  
4 is paid to the person for the service;

5 (3) An employer or association or its officers, directors,  
6 employees, or the trustee of any employee trust plan,  
7 to the extent that the employer, association,  
8 officers, employees, directors, or trustees are  
9 engaged in the administration or operation of a  
10 program of employee benefits for the employer's or  
11 association's own employees or the employees of its  
12 subsidiaries or affiliates, which program involves the  
13 use of insurance issued by an insurer, so long as the  
14 employers, associations, officers, directors,  
15 employees, or trustees are not in any manner  
16 compensated, directly or indirectly, by the company  
17 issuing the contracts;

18 (4) Employees of insurers or organizations employed by  
19 insurers who are engaging in the inspection, rating,  
20 or classification of risks, or in the supervision or  
21 the training of insurance producers, and who are not



1 individually engaged in the sale, solicitation, or  
2 negotiation of insurance;

3 (5) A person whose activities in this State are limited to  
4 advertising without the intent to solicit insurance in  
5 this State through communications in printed  
6 publications or other forms of electronic mass media,  
7 whose distribution is not limited to residents of this  
8 State; provided that the person does not sell,  
9 solicit, or negotiate insurance that would insure  
10 risks residing, located, or to be performed in this  
11 State;

12 (6) A person who is not a resident of this State who  
13 sells, solicits, or negotiates a contract of insurance  
14 for commercial property and casualty risks to an  
15 insured with risks located in more than one state  
16 insured under that contract; provided that the person  
17 is otherwise licensed as an insurance producer to  
18 sell, solicit, or negotiate that insurance in the  
19 state where the insured maintains its principal place  
20 of business and the contract of insurance insures  
21 risks located in that state; [~~or~~]

1 (7) A salaried, full-time employee who counsels or advises  
2 the person's employer relative to the insurance  
3 interests of the employer or of the subsidiaries or  
4 business affiliates of the employer; provided that the  
5 employee does not sell or solicit insurance or receive  
6 commissions~~[-]~~; or

7 (8) A person whose only activity is the facilitation of  
8 procuring stored property insurance covering tenant  
9 property, in connection with and incidental to the  
10 rental of storage space in a self-service storage  
11 facility under a rental agreement, for a period not to  
12 exceed one year; provided that the person or self-  
13 service storage operator may receive a service fee,  
14 but not a commission, for such stored property  
15 insurance procured by the self-service storage  
16 facility tenant, written disclosure material is given  
17 to the tenant at the time the tenant procures such  
18 insurance, and the written material includes all of  
19 the following:

20 (A) A disclosure that the stored property insurance  
21 is not required under State law, and may

1           duplicate coverage already provided by the  
2           tenant's homeowners', renters', or other  
3           insurance policies;

4           (B) A summary of the material terms of the stored  
5           property insurance coverage, including all of the  
6           following:

7           (i) The identity of the insurer;  
8           (ii) The benefits of the coverage; and  
9           (iii) The key terms and conditions of the  
10           coverage;

11           (C) A summary of the process for filing a claim.

12           For the purposes of this paragraph:

13           "Self-service storage facility" has the same meaning  
14           as in section 507-61.

15           "Stored property insurance" means insurance under a  
16           group or master policy issued to a self-service storage  
17           facility to provide insurance coverage to its tenants for  
18           the loss of, or damage to, tangible personal property that  
19           is contained in a storage space located at a self-service  
20           storage facility or is in transit during the term of a  
21           self-service storage facility rental agreement."

1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

H.D. 2 PROPOSED