

# SB2938

**Measure Title:** RELATING TO INSURANCE REGULATORY VARIANCE.

**Report Title:** Insurance Regulatory Variance; Insurance Commissioner  
Authorizes the Insurance Commissioner to grant variances,

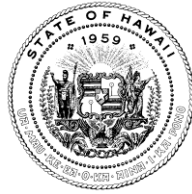
**Description:** waivers, or no action letters with respect to specific  
requirements of the insurance code or its rules when  
certain conditions are met.

**Companion:** [HB2511](#)

**Package:** None

**Current  
Referral:** CPH

**Introducer(s):** BAKER (Introduced by request of another party)



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**TO THE SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**TWENTY-NINTH LEGISLATURE**  
**Regular Session of 2018**

Thursday, February 15, 2018  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2938, RELATING TO INSURANCE  
REGULATORY VARIANCE.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on S.B. 2938, Relating to Insurance Regulatory Variance. My name is Gordon Ito, and I am the Insurance Commissioner (“Commissioner”) for the Department’s Insurance Division. The Department strongly supports this bill, which is a companion to H.B. 2511, and provides the following comments.

This bill proposes that the Commissioner have the authority of granting limited variances with respect to the enforcement or application of certain requirements of insurance laws. Applicants for these variances must justify that the variances do not have negative economic impacts, are warranted, and are beneficial to the public.

Technology and consumer expectations are rapidly transforming the regulated insurance industry. Insurers are making substantial investments in innovative insurance products, services, and technologies which hold great promise in mitigating risks, improving efficiencies, reducing transaction costs, speeding claims’ payments, and

improving overall customer understanding of and satisfaction with this essential form of financial protection.

Without altering current statutory and rule requirements which regulate the financial viability and duties and obligations of insurers, it appears advantageous to have a procedure available to promote expanded competition and innovation for the benefit of consumers by providing narrowly tailored variances for insurers.

By actively engaging with and encouraging the piloting and testing of new and innovative products, pricing, and ways of delivering insurance to businesses and consumers, the State can encourage mitigation of risks resulting in reduced insurance costs and expand insurance markets, in particular, by making insurance transactions more accessible for first-time insurance buyers.

Thank you for the opportunity to testify on this measure.

Testimony of the  
**American Insurance Association**  
on  
**Senate Bill No. 2938**  
**Relating to Insurance Regulatory Variance**  
Committee on Consumer Protection and Health  
Thursday, February 15, 2018  
9:00 a.m. Room 229

The American Insurance Association strongly supports SB 2938, which would give the Insurance Commissioner the flexibility needed to implement a regulatory sandbox, a supervised environment where innovative new insurance products, services and technologies can be pilot tested in a live market situation in a controlled manner. By creating the first such sandbox in the United States, Hawaii would have the opportunity to attract high tech companies to the State, which would be good both for the economy at large as well as creating more competition for insurance consumers. Furthermore, because insurance is a capital-intensive and somewhat unique business, there will be plenty of opportunities for established Hawaiian insurers, as well, since many high-tech companies will seek partners with the requisite knowledge and reputation among consumers to successfully attract and service customers.

The opportunity to attract business to Hawaii is not insignificant. According to a recent report by the consulting firm Willis Towers Watson P.L.C.<sup>1</sup>, investment in so-called “insurtech” companies grew to \$2.3 billion in 2017, a 36% increase over the prior year. This investment is likely to continue, as innovative new technologies hold great promise for improving:

- Understanding and mitigation of risk;
- Efficiency and cost of insurance transactions;
- Speed of claim payments; and
- Overall customer satisfaction.

Regulatory sandboxes for both banks and insurance have been successfully implemented in other countries, including the United Kingdom, Australia and Singapore. The U.K. Financial Conduct Authority (FCA) – that country’s regulator of financial services market behavior – first introduced their regulatory sandbox in June 2016 and recently issued a report on their experience over the first year of sandbox operation<sup>2</sup>. In that report, the FCA concluded that their regulatory sandbox already is successfully meeting the following objectives:

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<sup>1</sup> Quarterly Insurtech Briefing Q4 2017, Willis Towers Watson, February 1, 2018, <https://www.willistowerswatson.com/en/insights/2018/01/quarterly-insurtech-briefing-q4-2017>

<sup>2</sup> Regulatory Sandbox Lessons Learned Report, Financial Conduct Authority, October 2017 <https://www.fca.org.uk/publication/research-and-data/regulatory-sandbox-lessons-learned-report.pdf>

- reducing the time and, potentially, the cost of getting innovative ideas to market;
- enabling greater access to finance for innovators, by reducing regulatory uncertainty;
- enabling more products to be tested and, thus, potentially introduced to the market, increasing competition
- encouraging innovative insurance companies to work closely with regulators to ensure that appropriate consumer protection safeguards are built into new products and services.

The success of the U.K.'s regulatory sandbox, combined with the proximity of the State to the epicenter of the U.S. technology industry on the mainland's West Coast, are positive indicators for a productive and successful sandbox in Hawaii.

AIA also applauds the consumer protections and level playing field provisions built into SB 2938, including those listed below.

- **No reduction in consumer protection:** A company seeking a variance, waiver or no-action letter in order to test a new product or service would be required to demonstrate to the Insurance Commissioner that they can achieve the underlying intent of a statute or regulation by alternative means. The legislation also authorizes the Commissioner to reasonable terms, conditions, or limitations on the conduct or activity permitted under a variance, waiver, or no action letter in order to mitigate risks and protect consumers.
- **No waiver of any licensing or seasoning requirements:** The Commissioner would be prohibited from waiving any licensing or certificate of authority requirements, including any applicable seasoning requirements necessary to secure a license.
- **No easing of solvency standards:** The Commissioner would be prohibited from waiving any requirements governing assets, deposits, investments, capital, surplus, or other solvency requirements.
- **No exemption from taxes or fees:** The Commissioner would be prohibited from waiving any taxes or fees.
- **Required Transparency:** So that other market participants are kept informed of the potential opportunity to secure variances, waivers or no action letters, the

Commissioner would be required to publish certain information whenever such regulatory relief is granted.

These and other provisions in SB 2938 will serve to ensure that this legislation is implemented in a manner that encourages innovation while protecting consumers and maintaining an insurance market that is competitive and fair to all participants.

Hawaii has the opportunity to be innovative and attract business to the local economy by becoming the first state in the nation to create an insurance regulatory sandbox.

AIA urges the Committee to support an innovative Hawaiian economy by voting Yes on SB 2938.

Thank you for the opportunity to testify in support of this exciting new legislation.



An Independent Licensee of the Blue Cross and Blue Shield Association

February 15, 2018

The Honorable Rosalyn H. Baker, Chair  
The Honorable Jill N. Tokuda, Vice Chair  
Senate Committee on Commerce, Consumer Protection, and Health

Re: SB 2938 – Relating to Insurance Regulatory Variance

Dear Chair Baker, Vice Chair Tokuda, and Committee Members:

Hawaii Medical Service Association (HMSA) supports the intent of SB 2938, which authorizes the Insurance Commissioner to grant variances, waivers, or no action letters with respect to specific requirements of the insurance code or its rules when certain conditions are met.

This Bill could allow the Insurance Commissioner to permit health plans to experiment with technology and innovation in creating programs and incentives that can promote and support healthy behavior. As we all know health care costs are on the rise, we think innovation can play a strategic part in helping to bend the cost curve.

Thank you for the opportunity to testify on this measure.

Sincerely,

Pono Chong  
Vice-President, Government Relations