



DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT 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
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, April 3, 2018
10:20 a.m.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON SENATE CONCURRENT RESOLUTION NO. 137, S.D. 1,
REQUESTING THAT THE INSURANCE COMMISSIONER ESTABLISH AND
CONVENE AN INSURANCE MODERNIZATION WORKING GROUP TO UPDATE
AND MODERNIZE HAWAII'S PROPERTY, CASUALTY, AND LIFE INSURANCE
LAWS.**

TO THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify in support of S.C.R. 137, S.D. 1, Requesting that the Insurance Commissioner Establish and Convene an Insurance Modernization Working Group to Update and Modernize Hawaii's Property, Casualty, and Life Insurance Laws. My name is Gordon Ito, and I am the Insurance Commissioner ("Commissioner") for the Department's Insurance Division.

The Department notes that the goals contained in this concurrent resolution are very similar to what was proposed in S.B. 2938, S.D. 1, which the Senate passed and the Department strongly supported. This concurrent resolution proposes that a working group be formed to explore and propose legislation to update and modernize Hawaii's property and casualty insurance and life insurance laws in the face of rapid technological changes in the insurance industry.

The Department supports this resolution but is aware that the process of convening a task force, reporting to the Legislature, preparing proposed insurance statutory changes resulting from the task force's recommendations, introducing insurance regulation legislation, and implementing the resulting legislation, in addition to allowing a reasonable grace period for the industry, may take at least three or four years. The most recent recodification of Hawai'i's insurance regulatory laws took a similar time period. Meanwhile, during this proposed three- to four-year time period, meaningful opportunities to deliver new and innovative technologies, products and services will be lost or, at the very least, delayed to Hawai'i's citizens.

The Department believes that this resolution and S.B. 2938, S.D. 1 can work well together. The bill allows the Commissioner to review beneficial and innovative consumer products for immediate application while, at the same time, work on the task force with the industry to update and streamline statutory laws. This affords the opportunity to have a seamless transition in the evolution of insurance regulation in Hawai'i.

Thank you for the opportunity to provide written testimony in support of this resolution.

**SENATE COMMITTEE ON
WAYS AND MEANS**

April 3, 2018

SCR 137 SD 1 - Requesting that the Insurance Commissioner Establish and Convene an Insurance Modernization Working Group to Update and Modernize Hawaii's Property, Casualty, and Life Insurance Laws

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee on Ways and Means:

I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm supports Senate Concurrent Resolution 137 Senate Draft 1.

The purpose of this resolution is to convene an insurance modernization working group to update and modernize the State's property and casualty insurance and life insurance laws. The insurance code, originally adopted in 1988, has not been substantively updated to account for technological innovations such as the Internet and smart phones. Today, however, substantial investments in innovative insurance products, services, and technologies have already improved the insurance industry by mitigating risks, improving efficiencies, reducing costs of insurance transactions, expediting claim payments, and improving overall customer understanding and satisfaction.

Much of the code applicable to auto insurance was revised twenty years ago. I am uncertain how long ago the life insurance and homeowners code was last reviewed. Technology has advanced over those years making certain concepts problematic, such as "electronic documents". When first envisioned "electronic documents" were electronic (digitized) copies of an original written document. This was a time of photocopies and faxes, today online applications are not in a "document" format but digital inputs, yet the code has not advanced to consider these advances. Document storage in the past required actual documents to be saved in an agent's office; but this too has changed where documents are stored online and can be made available to agents and, in some cases, to consumers themselves, without the necessity of physically travelling to an agent's or a company's office. Although seemingly minor, these changes should be reviewed to clarify current practices.

The resolution continues the trend for the Insurance Code to reflect the current state of business and provide customers with the convenience they desire. We believe a meeting of all interested parties is prudent and worthy of consideration.

Thank you for the opportunity to present this testimony.

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) REGARDING SCR 137, SD1**

April 3, 2018
10:20 a.m.
Room 211

To: Chair Donovan M. Dela Cruz and Members of the Senate Committee on Ways and Means:

My name is Nahelani Webster and I am presenting this testimony on behalf of the HAJ regarding SCR 137, SD1. HAJ offers the following comments.

The resolutions are broadly titled to call for modernization of the Hawaii Insurance Code with respect to property & casualty (P&C) and life insurance laws. These resolutions appear to highlight “technological innovations” such as the internet and smartphones. Whether the proponents seek a broad top to bottom review of the Insurance Code or a more focused examination of aspects affected by “technological innovations,” is not clear.

With respect to a comprehensive review and overhaul of the code, we offer two comments. First, the code has not been a static document. Many changes – some major and some minor – have been made to the code since the time it was first enacted in 1987. This committee reviews dozens of changes each legislative session and has amended the code annually. Hence, it is not accurate to view or portray the code as out-of-date simply because it was initially promulgated in 1987. It is, and has been, evolving to address the needs of a changing world. Second, a truly comprehensive review of the insurance code is a massive undertaking. HAJ participated in the working group which drafted the 1987 code and recognizes that a comprehensive review may not be the best use of division resources given the division’s priorities. In addition, there have been no significant

problems identified with applying the uniformly applicable requirements to new and innovative technologies that would warrant the need for a comprehensive review at this time."

Representatives from P&C insurers, health insurers, HAJ, Commissioner Gordon Ito and his staff met previously to discuss legislation related to updating insurance code provisions implicated in advancing technology. It was a good discussion of the challenges facing insurance regulators when deciding how fast or slow to proceed in encouraging, adopting and implementing regulatory changes related to technology. A few states have taken an aggressive position that regulators need to be on the cutting edge of technology or be left behind, while many states and the federal government have approached the issue more conservatively taking a look before you leap approach. One is not right and the other wrong. Both approaches have sound reasons that merit consideration. Some deference should be given to the commissioner to determine the scope and timing for his division given his judgment and available resources.

As to the application of advancing technology to highly regulated financial industries (of which insurance is a sub-group) there is a concern that being at the cutting edge is not necessarily best due to the difficulties in adequately regulating emerging technology to protect consumers. Regulators have neither the expertise nor resources to effectively regulate emerging technological platforms. Current examples include misuse of consumer data by the largest technology giants, surreptitious manipulation of America's government by foreign governments using highly sophisticated technology, data breaches of on-line financial services involving the largest banks in the country, and estimates that perhaps half of cyber financial transactions involving cryptocurrency are

related to criminal activity. It is one thing to be at the cutting edge for ordering pizza on your iPhone; but may be quite another when the safety and stability of an important financial industry is involved. Look before you leap might be the more prudent approach until regulators can gain a better understanding of current (and future) hacking threats and prevention, as well as controlling unauthorized use of information as has apparently been happening on a widespread basis with cyber technology.

HAI appreciates the opportunity to be a part of this important discussion and inclusion in the proposed working group should these resolutions be adopted and implemented.

Thank you for the opportunity to testify and for listening to our concerns and comments. Please feel free to contact me should there be any questions.