

Honolulu, Hawaii

FEB 28 2019

RE: S.B. No. 1212  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 1212 entitled:

"A BILL FOR AN ACT RELATING TO REGULATORY AUTHORITY OF THE  
INSURANCE COMMISSIONER,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require third party administrators to be licensed and regulated by the Insurance Commissioner; and
- (2) Authorize the Insurance Commissioner to issue targeted variances, waivers, or no-action letters under provisions of the State's insurance code.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs; MDX Hawaii, Inc.; and Hawaii-Western Management Group. Your Committee received testimony in opposition to this measure from the Hawaii Association for Justice. Your Committee received comments on this measure from State Farm Mutual Automobile Insurance Company, Kaiser Permanente, and Hawaii Medical Service Association.

Your Committee finds that third-party administrators collect charges or premiums from residents in the State in connection with insurance policies, or adjust or settle claims on those policies.



Hawaii is one of eight states and jurisdictions that do not regulate third-party administrators. Currently, nineteen states require third-party administrator licenses, sixteen states require certificates of registration, eight states require certificates of authority, and two states require either licenses or registrations. This measure is based on the National Association of Insurance Commissioner's Registration and Regulation of Third-Party Administrators Guideline, which offers flexible, bright line rules to help states tailor and adopt measures particular to their own needs.

This measure regulates third-party administrators, ensures adequate consumer protection, and promotes transparency of third-party administrators by requiring licensure, encouraging disclosure of contracts between insurers and third-party administrators, and promoting the financial responsibilities of third-party administrators.

Your Committee has heard the concerns raised in testimony that the ability of the Insurance Commissioner to issue targeted variances, waivers, or no-action letters, as proposed by this measure, is overly broad. According to testimony received by your Committee, this measure appears to authorize the Insurance Commissioner to broadly exempt any person or entity from almost every law in the State's Insurance Code, for any amount of time and in any scope. There are also no guidelines for consistent application of variances, transparency, or opportunity for public comment. Your Committee understands these concerns and concludes that amendments to this measure are necessary.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have allowed the Insurance Commissioner to issue variances, waivers, or no-action letters; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1212, as amended herein, and



recommends that it pass Second Reading in the form attached hereto as S.B. No. 1212, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,

  
\_\_\_\_\_  
ROSALYN H. BAKER, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:* <b>SB 1272</b>	Committee Referral: <b>CPH</b>	Date: <b>2/15/19</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	X			
CHANG, Stanley (VC)				X
KEOHOKALOLE, Jarrett	X			
NISHIHARA, Clarence K.				X
RUDERMAN, Russell E.	X			
THIELEN, Laura H.	X			
FEVELLA, Kurt	X			
<b>TOTAL</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:    Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes