

Honolulu, Hawaii

, 2020

MAY 11

RE: S.B. No. 2876
S.D. 1
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 2876, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose of this measure is to make various amendments to the State's insurance laws. Specifically, this measure:

- (1) Institutes certain consumer protections with regard to public adjusters, by:
 - (A) Requiring certain contractual terms and disclosures;
 - (B) Capping the commissions public adjusters may charge; and
 - (C) Specifying that insureds have a right to rescind with certain restrictions;
- (2) Imposes the standard of conduct that is applied to other insurers upon limited lines motor vehicle rental company producers, owners of self-service storage facilities, and vendors of portable electronics;



- (3) Authorizes the Insurance Commissioner to waive or modify, in whole or part, upon a showing of good cause, any or all fees deposited into the Commissioner's Education and Training Fund and Compliance Resolution Fund;
- (4) Mandates the electronic payment of certain fees and taxes and electronic filing of certain reports, and updates the system utilized for electronic filing;
- (5) Corrects an inaccuracy by stating that public adjusters and bill reviewers handle funds, not premiums;
- (6) Reinstates the right to an administrative hearing and appeal from an order that was inadvertently repealed by Act 279, Session Laws of Hawaii 2019;
- (7) Amends the composition and criteria for choosing members of the Hawaii Joint Underwriting Plan Board of Governors; and
- (8) Clarifies that rewards under wellness programs that meet certain criteria do not qualify as prohibited rebates.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Hawaii Insurers Council, Hawaii Public Adjusters, and Hawaii Medical Service Association. Your Committee received testimony in opposition to this measure from the Hawaii Public Insurance Adjusters Association; American Association of Public Insurance Adjusters; Americas Realty; Aloha Public Adjusters, LLC; and six individuals.

Your Committee finds that updating the State's insurance laws is necessary for clarity, to provide greater protections to consumers, and improve the administration and enforcement of regulated entities. With respect to public adjusters, your Committee finds that public adjusters play a vital role in advocating on behalf of consumers in appraising and negotiating insurance claims. However, due to the importance of this relationship, your Committee finds that certain protections must be instituted to ensure that unscrupulous professionals are not taking advantage of consumers. Your Committee notes that, in an



effort to protect consumers, a balance must be achieved such that the protections do not overburden fair and honest professionals. To this end, your Committee believes that the eight percent cap on the charges public adjusters may charge for their services, as proposed by this measure, would place an unnecessary financial burden on the adjusters. However, your Committee further believes that a maximum for the amount public adjusters may charge for their services is necessary to protect consumers. To strike this balance, your Committee finds that the Insurance Commissioner is in the best position to determine the reasonableness of a public adjuster's fee and as such, this determination should be left to the Insurance Commissioner's discretion.

Your Committee has amended this measure by:

- (1) Deleting the cap on commissions public adjusters may charge and instead requiring that commissions cannot be unreasonable, as determined by the Insurance Commissioner;
- (2) Deleting the prohibition on a public adjuster receiving a commission in the event an insurer pays or commits to pay the insured the policy limit within seventy-two hours after the date on which the loss is reported to the insurer;
- (3) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2876, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2876, S.D. 1, H.D. 1, and be referred to your Committee on Finance.



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

Takumi

ROY M. TAKUMI, Chair



State of Hawaii
House of Representatives
The THIRTIETH Legislature

HSCR 1173-20

Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: <i>SB 2876, SDI</i>	Committee Referral: <i>CPC, FIN</i>	Date: <i>3/11/20</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. TAKUMI, Roy M. (C)	✓			
2. ICHIYAMA, Linda (VC)	✓			
3. AQUINO, Henry J.C.				✓
4. BELATTI, Della Au				✓
5. CABANILLA ARAKAWA, Rida	✓			
6. CACHOLA, Romy M.	✓			
7. HAR, Sharon E.	✓			
8. KONG, Sam Satoru	✓			
9. MIZUNO, John M.	✓			
10. ONISHI, Richard H.K.	✓			
11. MATSUMOTO, Lauren				✓
TOTAL (11)	<i>9</i>	<i>0</i>	<i>0</i>	<i>3</i>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: <i>Rida Arakawa</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				