



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. 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

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Friday, February 5, 2021
2:00 p.m.
Via Videoconference**

**On the following measure:
H.B. 942, RELATING TO INSURANCE**

Chair Johanson and Members of the Committee:

My name is Colin M. Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division (INS). The Department supports this administration bill and requests an amendment to section 12.

The purpose of this bill is to amend various portions of title 24 of the Hawaii Revised Statutes (HRS) to update and improve existing provisions.

Currently, HRS chapter 431, article 9, does not mandate contractual terms for agreements between public adjusters and insureds, leaving an insured in a vulnerable position that can be exploited by exorbitant commissions and unreasonable contractual terms. In the past five years, the INS has handled 36 files related to public adjusting. Of this total, 12 involve contractors acting as public adjusters, 19 involve disputes between insurers and public adjusters, 3 involve consumers, and 2 involve miscellaneous public adjusting issues. By including mandatory contractual terms, mandatory disclosures, and reasonable commissions that adjusters may charge

insureds, **Section 1** of this bill will help consumers know when they are engaging the services of a public adjuster, prevent unlicensed persons from acting as public adjusters, and help insurers know when their insureds have engaged the services of licensed public adjusters.

Niche insurance markets are increasingly seeking to obtain limited lines producer licenses from the INS. These licenses are currently not subject to uniform standards, creating potential for consumer misinformation and harm. **Sections 2, 3, 4, and 11** of this bill will set forth standards of conduct for limited lines producers and hold them to standards consistent with those of other producers.

Fees deposited into the Commissioner's Education and Training Fund and the Compliance Resolution Fund may exceed expenditures in a given fiscal year, and the Insurance Commissioner currently has no authority to waive, in part or whole, the fees deposited into these funds when expenditures are not commensurate with deposits. **Sections 5, 14, 15, 16, 17, 18, 19, 20, and 21** of this bill will give the Insurance Commissioner this authority.

Insurers submit premium taxes via OPTIns, an electronic payment platform developed by the National Association of Insurance Commissioners to facilitate the submission of premium tax, surplus lines, and other state-specific filings and payments to participating states. However, HRS section 431:7-202(f) does not employ the term "OPTIns." **Section 6** of this bill will amend that subsection to correctly reference the electronic system used to facilitate insurers' electronic payment of premium taxes.

Insurers currently file paper statements and pay fees and surplus lines taxes via paper check. This can create inefficiency, delays, and errors in manual processing. **Sections 7 and 8** of this bill will mandate electronic filing of surplus lines reports and payment of surplus lines premium taxes, thereby reducing processing errors and delays in the availability of funds paid to the State.

HRS section 431:9-230 inaccurately provides that adjusters and bill reviewers handle premiums, when they handle only funds from clients. **Section 9** of this bill will replace "premiums" with "client funds" in that section to accurately reference that adjusters and bill reviewers handle clients' claim funds and not premiums.

Act 279, Session Laws of Hawaii 2019, inadvertently removed the right to an administrative hearing and an appeal from an order in all cases, even when the suspension, revocation, or nonrenewal does not stem from defaults involving student loans or scholarship contracts. **Section 10** of this bill will reinsert in HRS section 431:9-235(e) the right to an administrative hearing and an appeal from an order suspending, revoking, or refusing to extend any license for any cause specified in HRS chapter 431, article 9, thereby preserving due process rights in those cases.

HRS section 431:10C-405(a) has outdated and nonexistent criteria for the Hawaii Joint Underwriting Plan (HJUP) Board of Governors and does not accurately reflect the member composition commensurate with the HJUP's plan size and operations. **Section 12** of this bill will amend the board's composition to more accurately reflect member composition and member selection criteria. The Department also requests the following amendment on page 18, lines 1 through 13, to ensure board vacancies are filled:

- “(1) [~~Five~~] Four persons from, and members or representatives of, nationally organized insurers or their domestic insurer affiliates;
- (2) One person to represent insurance producers; and
- ~~[(3) Two members, each a self-insurer under this article, and nominated by all the certified self-insurers in the State;~~
- ~~(4) Two members, not affiliated with the foregoing organizations, nominated by such nonaffiliated insurers; and~~
- ~~(5)]~~ (3) Two members [~~each, to be~~] selected by the commissioner or nominated by each of the classifications provided for in section 431:10C-407(b).”

Wellness programs and devices tied to monitoring health may be viewed as rebates and in violation of HRS section 431:13-103(a)(9) when offered by insurers.

Section 13 of this bill will clarify that rewards under certain wellness programs of health care plans do not constitute a rebate by insurers to insureds; this, in turn, may reduce utilization of health services and potentially reduce insurance premiums.

In HRS sections 431K-3.5 and 431K-7.1(a), the specified dates for extensions of certificates for risk retention groups are inconsistent with the extension dates

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established pursuant to section 431:3-214. **Sections 14 and 15** of this bill will replace the specified dates for extensions of certificates for risk retention groups with the extension dates established pursuant to section 431:3-214; this will maintain consistency with other certificates issued by the INS.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill.



February 5, 2021

The Honorable Aaron Ling Johanson, Chair
The Honorable Lisa Kitagawa, Vice Chair
House Committee on Consumer Protection & Commerce

Re: HB 942 – Relating to Insurance

Dear Chair Johanson, Vice Chair Kitagawa, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 942, which amends various portions of title 24 of the Hawaii Revised Statutes to update and improve existing provisions.

HMSA supports this measure to align and improve existing provisions in the insurance statutes.

Thank you for allowing us to testify on HB 942.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew W. Sasaki". The signature is fluid and cursive, with the first name "Matthew" being the most prominent part.

Matthew W. Sasaki
Director, Government Relations

LATE

HB-942

Submitted on: 2/5/2021 10:12:27 AM

Testimony for CPC on 2/5/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Hugh Joslin - CPPA	Individual	Support	No

Comments:

Support via attached written testimony.