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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 17, 2021
9:30 a.m.
Via Videoconference**

**On the following measure:
S.B. 1096, RELATING TO INSURANCE**

Chair Baker 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

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.

Testimony of
Jonathan Ching
Government Relations Manager

Before:

Senate Committee on Commerce and Consumer Protection
The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair

February 17, 2021
9:30 a.m.
Via Videoconference

Re: SB 1096, Relating to Insurance

Chair Baker, Vice Chair Chang, and committee members, thank you for this opportunity to provide testimony on SB 1096, amends various portions of title 24 of the Hawai‘i Revised Statutes to update and improve existing provisions.

Kaiser Permanente Hawai‘i SUPPORTS SB 1096.

Kaiser Permanente Hawai‘i is Hawai‘i’s largest integrated health system that provides care and coverage for approximately 260,000 members. Each day, more than 4,400 dedicated employees and more than 600 Hawai‘i Permanente Medical Group physicians and providers come to work at Kaiser Permanente Hawai‘i to care for our members at our 20 medical facilities, including Moanalua Medical Center, providing high-quality care for our members and delivering on our commitment to improve the health of the 1.4 million people living in the communities we serve.

We support SB 1096 because it will update and improve existing provisions of title 24 of Hawai‘i Revised Statutes, thereby enhancing consumer protections for our community.

We ask the committees to PASS SB 1096. Mahalo for the opportunity to testify on this important measure.



February 17, 2021

The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Senate Committee on Commerce and Consumer Protection

Re: SB 1096 – Relating to Insurance

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

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 1096, 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 in support of SB 1096.

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

Hawaii State Legislature
Senate Committee on Commerce and Consumer Protection

February 16, 2021

Filed via electronic testimony submission system

RE: SB 1096, Relating to Insurance - NAMIC's Testimony in Support

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 17, 2021 public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation. NAMIC's written comments need not be read into the record, so long as they are referenced as a formal submission and are provided to the committee for consideration.

The National Association of Mutual Insurance Companies is the largest property/casualty insurance trade group with a diverse membership of more than 1,400 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 66 percent of the homeowner's insurance market and 53 percent of the auto market. NAMIC has 84 members who write property/casualty in the State of Hawaii, which represents 28% of the insurance marketplace.

NAMIC supports the proposed legislation, because insurance consumer would benefit from regulatory standards pertaining to contractual relations between public adjuster and policyholders. Professionals, like public adjusters, should welcome written clarity as to the rights and responsibilities of the contracting parties, so as to avoid misunderstandings that have legal implications. NAMIC supports this provision because it would create reasonable, appropriate and necessary consumer protection guideline that will prevent legal conflicts between insurance consumers and the public adjusters.

For the aforementioned reasons, NAMIC respectfully requests that YOU VOTE YES on SB 1096.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,



Christian John Rataj, Esq.
NAMIC Senior Regional Vice President
State Government Affairs, Western Region