



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 Finance
Wednesday, March 31, 2021
2:30 p.m.
Via Videoconference**

**On the following measure:
S.B. 1100, S.D. 1, H.D. 2, RELATING TO INSURANCE DATA SECURITY**

Chair Luke and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department supports this administration bill and requests three amendments.

The purpose of this bill is to adopt the National Conference of Insurance Commissioners' (NAIC) Insurance Data Security Model Law to establish insurance data security standards for Hawaii insurance licensees.

The Department requests the following amendments:

- Amend page 1, lines 12 through 17, to read: "The purpose of this Act is to enact the National Association of Insurance Commissioners Insurance Data Security Model Law to establish the exclusive state standards applicable to Hawaii insurance licensees for insurance data security [~~the investigation of a cyber security event, and notification to the commissioner~~]." This amendment will clarify that the bill's purpose is limited to adopting the NAIC's Insurance

Data Security Model Law to establish insurance data security standards for Hawaii insurance licensees.¹

- Amend page 7, lines 12 through 16, to read: “**§431: -102 Powers of the commissioner.** (a) The licensee’s [~~domiciliary~~] regulator shall have the power to examine and investigate the affairs of any licensee to determine whether the licensee has been or is engaged in any conduct in violation of this article.” Not all insurance licensees are domiciled in Hawaii, and the current language will severely limit the insurance commissioner’s ability to examine and investigate insurance licensees not domiciled in Hawaii to determine if they have violated this bill.
- Amend page 22, line 18 through page 23, line 11, to read:
“**§431: -208 Annual certification to commissioner.** (a) Each [~~licensee~~] insurer domiciled in the State shall annually submit to the commissioner a written statement by March 31, certifying that the [~~licensee~~] insurer is in compliance with the requirements set forth in this part.
(b) Each [~~licensee~~] insurer shall maintain all records, schedules, and data supporting this certificate for a period of five years for examination by the commissioner.
(c) To the extent [~~a licensee~~] an insurer has identified areas, systems, or processes that require material improvement, updating, or redesign, the [~~licensee~~] insurer shall document the identification and the remedial efforts planned and underway to address those areas, systems, or processes. The documentation shall be available for inspection by the commissioner.”

The NAIC’s Insurance Data Security Model Law requires only an insurer domiciled in the State to submit annual certification to the insurance commissioner.

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

¹ As currently written, this preamble statement contravenes: (1) Hawaii Revised Statutes (HRS) chapter 487N, which establishes notification and reporting requirements for data security breaches involving any business that owns or licenses the personal information of Hawaii residents; and (2) other parts of the bill that specify that Hawaii insurance licensees are subject to HRS chapter 487N, as stated on page 28, lines 10 through 11; page 28, lines 12 through 16; and page 30, lines 11 through 15.



March 30, 2021

TO: Representative Sylvia Luke, Chair
Representative Ty Cullen Vice-Chair
Members of the Finance Committee

FR: Blake K. Oshiro, Esq., on behalf of American International Group (AIG), Inc.

RE: TESTIMONY SUPPORTING INTENT OF SENATE BILL (SB) 1100, SENATE DRAFT (SD) 2,
HOUSE DRAFT (HD) 2

Dear Chair Nakashima, Vice-Chair Matayoshi and Members of the Committee:

American Insurance Group, Inc. (AIG) supports the intent of SB1100, SD2, HD2 adopting the National Association of Insurance Commissioner (NAIC)'s Insurance Data Security Model Law to establish insurance data security standards for Hawaii insurance licensees.

It is our understanding that NAIC adopted the Data Security Model Law in 2017 to strengthen existing data privacy standard and consumer breach notification obligations of insurance licensees. It is our further understanding that if this bill does not pass by 2022, states may risk federal preemption of state laws in this area. Therefore, we support formalizing insurance data security protections for all insurance licensees in the state and support the intent of this bill.

Thank you for your consideration and the opportunity to provide testimony.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON SB 1100, HD 2, RELATING TO INSURANCE DATA SECURITY

March 31, 2021

Honorable Representative Sylvia Luke, Chair
Committee on Finance
State House of Representatives
Hawaii State Capitol, Room 308 & Video-Conference
415 South Beretania Street
Honolulu, Hawaii 96813

Chair Luke and Members of the Committee:

Thank you for the opportunity to comment on SB 1100, HD2, Relating to Insurance Data Security.

Our firm represents the American Council of Life Insurers (“ACLI”). The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI’s 280 member companies represent 94% of the industry assets in the United States. Two hundred eighteen (218) ACLI member companies currently do business in the State of Hawaii; and they represent 94% of the life insurance premiums and 99% of the annuity considerations in this State.

SB 1100 adopts the National Association of Insurance Commissioners’ (“NAIC”) Insurance Data Security Model Act which establishes insurance data security standards for life insurers licensed to do business in this state.

While ACLI and its member companies support Hawaii’s adoption of the NAIC Model Act we request your consideration of our suggested revisions to SB 1100, as set forth below.

Section 2 of the Bill

Section 431: -102 Powers of the commissioner

The Hawaii Legislature cannot authorize regulators in other states to examine and investigate Hawaii licensees to determine whether they have violated a statute in Hawaii. Hawaii must, therefore, authorize its Insurance Commissioner – and not regulators of the licensee in other states – to examine and investigate its licensees to determine whether they have violated a Hawaii statute. Accordingly, paragraphs (a), at lines 12-16, and (b) at lines 17-19, on page 7 of this section, should be amended as follows :

(a) The ~~commissioner licensee's regulator~~ shall have power to examine and investigate the affairs of any licensee to determine whether the licensee has been or is engaged in any conduct in violation of this article. This power is in addition to the powers the commissioner has under section 431:2-301.7.

(b) Any examination or investigation of a licensee ~~domiciled in the State~~ shall be conducted pursuant to section 431:2-301.7.

....

Section 431: -302 Notification of a cybersecurity event

Subsection (a) of this section is confusing and internally inconsistent. Subsection (a) requires licensees to notify the commissioner after determining a cybersecurity event impacting 250 or more consumers has occurred. The only qualification is if licensees are notified by law enforcement officials not to distribute any information. Subsection (a)(2), however, then says licensees are required to provide notice of a cybersecurity event if the licensee reasonably believes the nonpublic information involved is of 250 or more **Hawaii residents and has a reasonable likelihood of causing material harm.**

Additionally, there is no materiality trigger in the duty of domestic insurers to report the occurrence of a cybersecurity event to the commissioner.

Therefore, paragraph (a), of this section on page 25, at lines 1-21, should be revised to eliminate confusion and internal inconsistency and include a materiality trigger to create the duty of domestic insurers to notify the Commissioner of the occurrence of a cybersecurity event, all as set forth below.

(a) Each licensee shall notify the commissioner as promptly as possible, but in no event later than three business days from a determination that a cybersecurity event ~~impacting two hundred fifty or more consumers~~ has occurred. ~~If law enforcement officials instruct a licensee not to distribute information regarding a cybersecurity event, the licensee shall not be required to provide notification until instructed to do so by law enforcement officials. Notification shall be provided~~ when either of the following criteria has been met:

(1) The licensee is domiciled in the State, in the case of an insurer, or the licensee's home state is Hawaii, in the case of an independent insurance producer, and the cybersecurity event has a reasonable likelihood of materially harming a consumer residing in this State or reasonable likelihood of materially harming any material part of the normal operations of the licensee; or

(2) The licensee reasonably believes that the nonpublic information involved is of two hundred fifty or more consumers residing in the State and is a cybersecurity event that has a reasonable likelihood of materially harming:

(A) Any consumer residing in the State; or

(B) Any material part of the normal operation of the licensee.

(3) If law enforcement officials instruct a licensee not to distribute information regarding a cybersecurity event, the licensee shall not be required to provide notification until instructed to do so by law enforcement officials.

Section 431: -305 Notice regarding cybersecurity events of reinsurers to insurers

The above caption on page 29, at lines 14-15 of the bill should be amended to correct the typographical error, as set forth below.

Section 431: -305 Notice regarding cybersecurity events of reinsurers to insurers

Thank you for your consideration of our proposed amendments and the opportunity to comment on SB 1100, HD 1, Relating to Insurance Data Security.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

Oren T. Chikamoto
1001 Bishop Street, Suite 1750
Honolulu, Hawaii 96813
Telephone: (808) 531-1500
E mail: otc@chikamotolaw.com

**TESTIMONY ON SENATE BILL NO. 1100,
SENATE DRAFT 1, HOUSE DRAFT 2
RELATING TO INSURANCE DATA SECURITY**



HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Wednesday, March 31, 2021, 2:30 p.m.
Conference Room 308
State Capitol
415 South Beretania Street

To Representative Sylvia Luke, Chair; Representative Ty J.K. Cullen, Vice Chair; and members of the House Committee on Finance:

My name is Paul B. Shimomoto and I am submitting this testimony as the President of the Hawaii Captive Insurance Council (“HCIC”). HCIC is a nonprofit corporation that is committed to promoting, developing, and maintaining the thriving captive insurance industry that has existed in the State of Hawaii for nearly 35 years. In partnership with the State of Hawaii Insurance Division, HCIC provides information and education on issues affecting captive insurance companies (including risk retention group captive insurance companies), and assists the State of Hawaii in promoting Hawaii as the premier captive insurance domicile in the Pacific and one of the most reputable captive domiciles nationally and globally.

The HCIC **supports the intent** of Senate Bill No. 1100, Senate Draft 1, House Draft 2 (“SB1100 SD1 HD2”), which seeks to substantively adopt the provisions of the Insurance Data Security Model Law produced by the National Association of Insurance Commissioners.

Thank you for this opportunity to submit testimony on SB1100 SD1 HD2.

Respectfully submitted:

Paul B. Shimomoto
Director and President
Hawaii Captive Insurance Council