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**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Friday, March 18, 2022
10:00 a.m.
Room 229 and Via Videoconference**

**On the following measure:
H.B. 2111, H.D. 1, 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. The Department supports this administration bill and respectfully requests an amendment to the effective date in Section 11.

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.

Under chapter 431, article 10D, part VII, the current standard for insurance producers making annuity recommendations is a suitability standard, which may not provide adequate consumer protection. In 2020, the NAIC adopted a revised Suitability in Annuity Transactions Model Regulation to strengthen the standard. **Sections 2 and 7** of this bill will add four new subsections and also amend HRS chapter 431, article 10D, part VII to adopt the NAIC's revised Suitability in Annuity Transactions Model Regulation, which more clearly defines a producer's responsibility to act in the best interest of the consumer when making a recommendation of an annuity and requires

insurers to establish and maintain a system to supervise recommendations. These amendments will ensure that the insurance needs and financial objectives of consumers at the time of the annuity transactions are effectively considered.

Currently, the limited lines producer license issued under HRS section 431:9A-107.5(a) does not cover other general travel insurance products such as trip interruption or cancellation, damages to accommodations or rental vehicles, emergency evacuations, or repatriation of remains. The absence of coverage creates potential confusion for consumers and gaps in product offerings for those with this license. Additionally, some insurance products covered under HRS section 431:9A-107.5(a) are outdated and obsolete. **Section 3** of this bill will cover the gaps in limited lines product offerings and remove existing products that are outdated and obsolete.

Dental insurers and dental service corporations are currently subject to Third Party Administrators (TPA) regulation codified in chapter 431, article 9J. Additionally, existing TPA regulation requires the TPA to obtain a \$100,000 surety bond for licensure, which is a lower amount compared to surety bond requirements for other regulated insurance entities. Further, licensed TPAs are currently not required to include an audited financial statement in their annual report to the Insurance Commissioner. **Sections 4, 5, and 6** of this bill will: (1) amend the definition of “administrator” or “third party administrator” in HRS section 431:9J-101 to exclude dental insurers and dental service corporations; (2) increase the surety bond threshold amount to \$300,000 from the third year in HRS section 431:9J-103; and (3) add audited financial statements as part of the required annual report filings in HRS section 431:9J-112. Excluding dental insurers and dental service corporations from the TPA regulation will address the drafting oversight from the previous legislative session. Other amendments will promote financial stability of these entities and increase consumer protection.

The Department respectfully requests the following amendments:

Section 11, page 43, line 21, to read as follows: “This Act shall take effect on July 1, 2022.” An identified effective date will provide clarity to affected parties as to when amendments will be in effect.

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



BEFORE THE

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

HB2111 RELATING TO INSURANCE

**TESTIMONY OF PAUL KAISER
President & Chief Operating Officer,
Hawaii-Western Management Group**

March 18, 2022, 10:00 a.m.
State Capitol Conference Room 229
(via videoconference)

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

My name is Paul Kaiser, the President and Chief Operating Officer of Hawaii-Western Management Group (HWMG). HWMG respectfully submits the following comments on HB2111, specifically as to the proposed amendment to raise the surety bond threshold amount.

By way of background, HWMG is a small, kama'aina third-party administrator providing health insurance management services for a wide range of organizations including Hawaii Medical Assurance Association (HMAA), Charter Communications, Hawaii Electricians Local Union 1186, and labor unions. HWMG is proud to be 100% employee-owned through its Employee Stock Ownership Plan (ESOP).

HB2111 would amend HRS Section 431:9J-103 to increase the surety bond requirement for third-party administrators from at least \$100,000 for the first two years to \$300,000 from the third year and beyond. A surety bond of \$300,000, however, is three times the amount recommended by the National Association of Insurance Commissioner (NAIC) as set forth in its model act (see <https://content.naic.org/sites/default/files/GL1090.pdf>). Such an increase in the surety bond amount will have a negative financial impact on administrators, without any appreciable benefit in exchange for the greater bond amount.

When HRS Section 431:9J-103 was first introduced in 2019 by way of Act 72 (SB 1212), the bill referenced a surety bond amount of at least \$300,000. Through the legislative process, the surety bond amount was reduced from \$300,000 to \$100,000 because a \$300,000 bond amount was in excess of the NAIC guidelines, was not necessary, and simply added additional burden to the affected industry. The surety

bond requirements should therefore be consistent with the NAIC model act and maintained at \$100,000.

For these reasons, HWMG respectfully urges that the surety bond requirement be maintained at \$100,000. Thank you for the opportunity to testify on this matter of critical importance.



HAWAII

Senate Committee on Commerce & Consumer Affairs
March 18, 2022 – 10:00 am – Room 220

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

RE: House Bill 2111, HD1 -- Relating to Insurance

Chair Baker, Vice Chair Chang, and members of the Committee, Cynthia Takenaka representing the National Association of Insurance and Financial Advisors (“NAIFA”) Hawaii, an organization of life insurance producers and financial advisors throughout Hawaii who primarily market life, annuities, long term care and disability income insurance products.

We support HB 2111, HD1, as it relates Section 7 – Suitability in Annuity Transactions but request for amendments to the annuity training time frames and effective date of the act.

1. On page 40, lines 3 to 20, the producer annuity training time frame be amended (**amended text in red**, strikethroughs are deletions from HB 2111, HD1):

(b) ~~[Any insurance]~~ **A** producer who is authorized to sell annuity products on or before ~~January 31, 2012~~ **December 31, 2022** shall complete by ~~January 31, 2012~~ **July 1, 2023**, a one-time training course on annuity products meeting the requirements of subsection (d), ~~– A producer who has completed an annuity training course approved by the commissioner prior to July 1, 2022, shall, within six months after July 1, 2022, completing~~ either:

- (1) ~~A new four credit training course approved by the commissioner after~~ **December 31, 2022** ~~July 1, 2022; or~~
- (2) ~~An additional one-credit training course approved by the commissioner and provided by an approved education provider on appropriate sales practices, replacement, and disclosure requirements under this part.~~

(c) ~~[An insurance]~~ **A** producer who obtains a life or variable life and variable annuity products line of authority after ~~January 31, 2012~~ **December 31, 2022**, shall not engage in the sale of annuities until the insurance producer has completed training meeting the requirements of subsection (d).

2. On page 43, we request that the effective date for Section 7 take effect on December 31, 2022.

Chapter 431, Article 10D, Part VII, HRS – Suitability in Annuity Transactions is being amended to update the NAIC’s Annuity Suitability Model that **establishes a best interest standard of care**

for annuity solicitations and sales, which requires a producer, or insurer where no producer is involved, **to consider the consumer's needs and financial interests above their own**. It

provides a clear definition of best interest and clearly defines the benchmarks producers must meet to satisfy their obligation to the client.

NAIFA was an active participant in the NAIC committee deliberations. Its adoption aligns with the goal of a uniform and standardized sales process for producers across the country.

The benchmarks producers must meet to satisfy the obligation to the client are: care, disclosure, conflict of interest and documentation. The updated model sets enhanced continuing education requirements for annuities, including updated education material and coursework reflecting the best interest obligations and producer requirements. It also aligns well with its federal counterpart – SEC's Regulation Best Interest. Together, these two initiatives will significantly enhance protections for consumers across the country who seek guaranteed lifetime income in retirement through annuities.

The best interest standard works to ensure that consumers receive valuable information to help them make informed decisions when considering the purchase of an annuity. The best interest standard ensures that customer's interest is put first. It's intended to protect access to advice, choices in how to engage with advisors and to provide clear obligations with respect to disclosures, potential conflicts of interest and knowing the consumers' needs and objectives.

Nineteen states have adopted the updated model language with an additional twelve states currently in the process of adoption. There is widespread insurance industry support for the Best Interest Standard of Care in annuity transactions.

Mahalo for allowing us to share our view in supporting HB 2111, HD1, with amendments and ask for your favorable consideration.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN SUPPORT OF HB 2111, HD 1, RELATING TO INSURANCE

March 18, 2022

Honorable Senator Rosalyn H. Baker, Chair
Honorable Stanley Chang, Vice-Chair
Committee on Commerce and Consumer Protection
State Senate
Hawaii State Capitol, Room 229 and Videoconference
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker, Vice-Chair Chang and Members of the Committee:

Our firm represents the American Council of Life Insurers (“ACLI”). 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 percent of industry assets in the United States. Two hundred seventeen (217) ACLI member companies currently do business in the State of Hawaii; and they represent 94% of the life insurance premiums and 97% of the annuity considerations in this State.

Thank you for the opportunity to testify in support of HB 2111, HD 1, Relating to Insurance.

HB 2111, HD 1, amends various provisions in Hawaii’s Insurance Code set forth in Chapter 431, Hawaii Revised Statutes, including amendments to Article 10D, relating to Annuities, adopting the National Association of Insurance Commissioners (NAIC) revised Suitability in Annuity Transactions Model Regulation provisions, which require producers to act in the best interest of the consumer when making a recommendation of an annuity and insurers to establish and maintain a system to supervise recommendations.

ACLI supports these proposed amendments. ACLI’s concerns, however, are those amendments relating to annuities. Accordingly, ACLI suggests that the bill be revised to address those provisions in the bill set forth below. Note: **amended text is in red**, including deletions of existing amended text in the original bill.

First, for purposes of clarity ACLI requests that all of the provisions of Section 1 of the bill, on page 1, at lines 1 – 4, be amended as set forth below:

SECTION 1. ~~The purpose of this Act is to update and improve various sections of the State’s insurance code relating to limited lines producer licenses, third-party administrators and annuity transactions.~~ The purpose of this Act is to

amend various portions of title 24 of the Hawaii Revised Statutes, to update and improve existing provisions and promote consumer protection, including:

(1) Adding the National Association of Insurance Commissioners Travel Insurance Model Law definition of “travel insurance” and eliminating optional limited licenses for travel insurance vending machines or selling certain policies as a promotional device to improve newspaper circulation;

(2) Amending the definition of “administrator” or “third party administrator” to exclude dental insurers and dental service corporations; increasing the surety bond threshold amount for consistency with requirements for other entities; and adding audited financial statements as part of required annual report filings; and

(3) Adopting the National Association of Insurance Commissioners revised Suitability in Annuity Transactions Model Regulation provisions, which require producers to act in the best interest of the consumer when making a recommendation of an annuity, and require insurers to establish and maintain a system to supervise recommendations

Secondly, ACLI requests that the provisions relating to the completion of producer training in the sale of annuities set forth in §431:10D-626, in section 6 of the bill, on page 39, at lines 16 – 21, and page 40, at lines 1 – 15, be amended as follows:

§431:10D-626 [~~Insurance producer~~] Producer training. (a) [~~An insurancee~~] A producer shall not solicit the sale of an annuity product unless the [~~insurancee~~] producer has adequate knowledge of the product to recommend the annuity and the [~~insurancee~~] producer is in compliance with the insurer's standards for product training. [~~An insurancee~~] A producer may rely on insurer-provided product-specific training standards and materials to comply with this subsection.

(b) [~~Any insurancee~~] A producer who is authorized to sell annuity produce on or before January 31, 2012 shall complete by January 31, 2012, a one-time training course training course meeting the requirements of subsection (d). A producer who has completed an annuity training course approved by the commissioner prior to ~~July 1, 2022~~December 31, 2022, shall, within six months after ~~July 1, 2022~~December 31, 2022, by completing either:

(1) A new four credit training course approved by the commissioner after July 1, 2022; or

(2) An additional one-credit training course approved by the commissioner and provided by an approved education provider on appropriate sales practices, replacement, and disclosure requirements under this part.

(c) [~~An insurancee~~] A producer who obtains a life or variable life and variable annuity products line of authority after ~~January 31, 2012~~ December 31, 2022,

shall not engage in the sale of annuities until the insurance producer has completed training meeting the requirements of subsection (d).

In addition, ACLI requests that Section 11 of the bill on page 43, line 21, be amended as follows:

Section 11. This Act shall take effect on ~~January 1, 2020~~ July 1, 2022; provided that section 1, section 2, section 6, and section 7 of this Act shall take effect on December 31, 2022.

Again, thank you for the opportunity to testify in support of HB 2111, HD 1, relating to Insurance.

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March 17, 2022

TO: Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice-Chair
Members of the Commerce and Consumer Protection Committee

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

RE: HB2111 HD1 Relating to Insurance. - **SUPPORT**

Dear Chair Baker, Vice-Chair Chang and Members of the Committee:

American Insurance Group, Inc. (AIG) supports HB2111 SD1 since it was amended by the House a provision that delays enforcement of Section 6 of the bill dealing with annuities. This would ensure that the industry has sufficient time to implement these systematic changes.

It is our understanding that the amendments proposed in the bill adopt the National Association of Insurance Commissioners (NAIC) revised Suitability in Annuity Transactions Model Regulation provisions, which require producers to act in the best interest of the consumer when making a recommendation of an annuity and insurers to establish and maintain a system to supervise recommendations. We support these changes.

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

HIIA

HAWAII INDEPENDENT
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Senator Rosalyn Baker, Chair
Senator Stanley Chang, Vice Chair
Committee on Commerce and Consumer Protection

RE: **HB 2111 HD1 – Relating to Insurance – In Support**
March 18, 2022; 10:00 a.m.; via Videoconference

Aloha Chair Baker, Vice Chair Chang and members of the committee,

The Hawaii Independent Insurance Agents Association (HIIA) is submitting testimony in support of HB 2111 HD1 which amends the limited lines producer licenses to include all aspects of travel insurance. Removes references to outdated and obsolete limited lines product offerings. Excludes dental insurers and dental service corporations as third party administrators. Increases the surety bond requirement and requires renewal certificates and audited financial statements in the annual reports of third party administrators. Adopts the National Association of Insurance Commissioners' revised Suitability in Annuity Transactions Model Regulation provisions.

HIIA is an organization devoted to promoting the independent agent in assisting the public with finding the best values for all their insurance needs. Our goal is to be a valued resource - to the public, by finding the best product at the best prices - and to the agent, by committing to be its advocate at the legislature and other governmental agencies so they can continue to serve and protect their clients. We see ourselves as consumer advocates, standing alongside our customers when they have a claim until settlement.

HIIA supports HB 2111 HD1 which updates and improves the state's insurance code. We urge your committee to pass this measure to align our statutes with the most current industry standards and best practices relative to Hawaii. We defer to the insurance commissioner for any necessary further amendments.

Mahalo for the opportunity to submit testimony in support of this measure.