



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 and Commerce
Thursday, February 24, 2022
2:00 p.m.
Room 329 and Via Videoconference**

**On the following measure:
H.B. 2112, RELATING TO CREDIT FOR REINSURANCE**

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. The Department supports this administration bill.

The purpose of this bill is to adopt revisions to the National Association of Insurance Commissioners' (NAIC) Credit for Reinsurance Model Law to conform to the requirements of the bilateral agreements on insurance and reinsurance between the United States and the European Union and between the United States and the United Kingdom.

The NAIC accreditation standard requires states to adopt the 2019 amendments to the NAIC's Credit for Reinsurance Model Law. The NAIC adopted the 2019 revisions to make the Credit for Reinsurance Model law consistent with bilateral agreements, or "covered agreements", entered into by the United States with the European union and the United Kingdom. Failure to establish a reinsurance modernization framework and collateral reforms, and to implement reinsurance collateral provisions of the covered

agreements will subject states to federal preemption in this area and may jeopardize the Insurance Division's accreditation with the NAIC.

We respectfully request the following amendments be made to be consistent with the Model Law:

1. Section 2, p.2, lines 11-13 to read as follows: "requirements of subsection (b), (c), (d), (e), ~~[(f)]~~ ~~[-]~~ , or (m). The commissioner may adopt by rules pursuant to section 431:4A-104(b) specific additional requirements relating to:"
2. Section 2, p.32, lines 15-16 to read as follows: "subsection (b), (c), (d), (e), or (f), but only with respect to the insurance of risks"
3. Section 2, p.34, lines 2-3 to read as follows: "requirements of subsection (b) ~~[(f)]~~ , (c), (d), (e), or (f), the credit permitted by subsection (d) and (e)"
4. Section 3, p.38, line 20 to read as follows: "pursuant to section 431:4A-104(b) specific additional requirements relating to:"

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

TESTIMONY OF ALISON UEOKA

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Aaron Ling Johanson, Chair
Representative Lisa Kitagawa, Vice Chair

Thursday, February 24, 2022
2:00 p.m.

HB 2112

Chair Johanson, Vice Chair Kitagawa, and members of the Committee on Consumer Protection & Commerce, my name is Alison Ueoka, President of the Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **supports** the intent of HB 2112. This bill is intended to align Hawaii accounting for reinsurance with the other 49 states, is necessary for Hawaii to maintain its NAIC accreditation, and ensures that Hawaii's insurance regulator has the information they need to regulate the ability and willingness of reinsurers to pay their claims as they become due.

This measure also ensures that Hawaii's law will not be preempted by the federal government, as this bill complies with the federally negotiated agreements with the EU and the UK.

Thank you for the opportunity to testify.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN SUPPORT OF HB 2112, RELATING TO CREDIT REINSURANCE

February 24, 2022

Honorable Representative Aaron Ling Johanson, Chair
Honorable Representative Lisa Kitagawa, Vice-Chair
Committee on Consumer Protection and Commerce
State House of Representatives
Hawaii State Capitol, Room 329 and Videoconference
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Johanson, Vice-Chair Kitagawa 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 well being 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.

HB 2112 adopts the 2019 revision to the National Association of Insurance Commissioners (“NAIC”) Credit for Reinsurance to conform to the requirements of the bilateral agreements on insurance and reinsurance between the United States (US) and the European Union and the US and the United Kingdom, and to ensure states’ regulatory authority remains intact.

ACLI supports these proposed changes, subject, however, to the suggested amendments set forth below. Note: **amended text is in red**, including deletions of existing amended text in the original bill.

FIRST REQUESTED AMENDMENT

Section 2 of the bill, amending subsection (a) of §431:4A-101, relating to credit allowed a domestic ceding insurer, on page 2 of the bill , at lines 7 through and including 19, should be amended as follows:

§431:4A-101 Credit allowed for domestic ceding insurer.

(a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subsection (b), (c), (d), (e), ~~[(f)]~~, ~~(g)~~, ~~(h)~~, ~~(i)~~, ~~(j)~~, ~~(k)~~, ~~(l)~~, or (m). The commissioner may adopt by rules pursuant to Section 431:4A-104(b) specific additional requirements relating to:

- (1) The valuation of assets or reserve credits;
- (2) The amount and forms of security supporting reinsurance arrangements described in section 431:4A-104(b); and
- (3) The circumstances pursuant to which credit will be reduced or eliminated.

Rational for the above requested amendment:

1. Subsections (g) through (l) of §431:4A-101 are deleted because these provisions are not provisions that authorize an insurer to take credit for reinsurance. Rather, those subsections refer to the type of reinsurance credit authorized under subsection (f) and to a degree are procedural.

2. The text, “pursuant to section 431:4A-104(b)”, is requested to be added to completely align with NAIC model law #785 as adopted on June 25, 2019. The regulatory authority referenced is intended to be and should be limited to a subset of life reinsurance transactions. Alternatively, deletion of the reference to regulatory authority here and on page 38, the Fourth Requested Amendment, would be acceptable, as section 431:4A-104(b) contains the necessary authorization language.

SECOND REQUESTED AMENDMENT

Section 2 of the bill, amending subsection (m) of §431:4A-101, relating to credit allowed a domestic ceding insurer, on page 32 of the bill , to delete lines 15 and 16, and replaced with new text, all as set forth below:

[~~(f)~~] (m) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection (b), (c), (d), ~~(e)~~ or (f), (g), (h), (i), (j), (k), or (l), but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

Rational for the above requested amendment:

This change aligns with the first amendment for the same rationale.

THIRD REQUESTED AMENDMENT

Section 2 of the bill, amending subsection (o) of §431:4A-101, relating to credit allowed a domestic ceding insurer, on page 34 of the bill , lines 1 through and including 5, all as set forth below:

[h] (o) If the assuming insurer does not meet the requirements of subsection (b) ~~or~~, (c), (d), (e) ~~or (f), (g), (h), (i), (j), (k), or (l)~~, the credit permitted by subsection (d) or (e) shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

Rational for the above requested amendment:

This change aligns with the First and Second Amendment for the same rationale. As this is subsection (o), the reference to subsection (m) is not relevant to this context.

FOURTH REQUESTED AMENDMENT

Section 3 of the bill, amending §431:4A-102, relating to asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer, on page 38 of the bill, at lines 13 through and including 20, all as set forth below:

“§431:4A-102 Asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer. An asset or reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 431:4A-101 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The commissioner may adopt by rules pursuant to section 431:4A-104(b) specific additional requirements relating to:

Rational for the above requested amendment:

As noted in the Rationale for the First Amendment, the added text of “pursuant to section 431-4A-104(b)” is to completely align with NAIC model law #785 as adopted on June 25, 2019. As noted in the Rationale for the First Amendment, deletion of the reference to regulatory authority here would be acceptable, as section 431:4A-104(b) contains the necessary authorization language.

As amended as requested above, ACLI is in strong support of HB 2112, relating to Credit for Reinsurance, and its passage by this Committee.

Again, thank you for the opportunity to testify in support of this bill.

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

Oren T. Chikamoto
P. O. Box 4277
Honolulu, Hawaii 96812
Telephone: (808) 531-1500
E mail: otc@chikamotolaw.com