

STAND. COM. REP. NO.

3646

Honolulu, Hawaii

APR 04 2024

RE: H.B. No. 2394  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 2394, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to amend various sections of article 11 of chapter 431, Hawaii Revised Statutes, that govern Insurance Holding Company Systems in the State to adopt certain revisions that were made to the National Association of Insurance Commissioners (NAIC) Model No. 440, Insurance Holding Company System Regulatory Act.

Your Committee notes that the companion to this measure, S.B. No. 3083, S.D. 1, Regular Session of 2024 (S.B. No. 3083, S.D. 1), is a substantially similar measure that also makes various amendments to article 11 of chapter 431, Hawaii Revised Statutes. S.B. No. 3083, S.D. 1, was previously passed by the Senate and is currently being considered in the House of Representatives.

Prior to the hearing on this measure, your Committee posted and made available for public view a proposed S.D. 1, which amends this measure by deleting its contents and replacing it with the contents of S.B. No. 3081, S.D. 1, Regular Session of 2024 (S.B. No. 3081, S.D. 1), which was previously passed by this Committee



and subsequently deferred by your Committee on Ways and Means. S.B. No. 3081, S.D. 1, makes various amendments to title 24, Hawaii Revised Statutes, the State's Insurance Code. Specifically, the proposed S.D. 1:

- (1) Defines "dormant captive insurance company", sets out a procedure to apply for a certificate of dormancy, and exempts certified dormant captive insurance companies from certain taxes and reporting requirements;
- (2) Includes in the term "trade name", names under which individuals or business entities are conducting business or doing business as;
- (3) Clarifies continuing education provider filing requirements;
- (4) Clarifies reinsurance intermediary-manager filing requirements;
- (5) Amends the surety bond threshold requirement for third party administrators and clarifies the audited financial statements requirements; and
- (6) Amends the definitions of "controlled unaffiliated business" and "participant" as applied to captive insurance companies.

Your Committee received testimony in support of the proposed S.D. 1 from the Insurance Division of the Department of Commerce and Consumer Affairs.

Your Committee received comments on the proposed S.D. 1 from the Department of the Attorney General.

Your Committee finds that the National Association of Insurance Commissioners (NAIC) updated certain provisions of the Insurance Holding Company System Regulatory Act relating to, among other things, the group capital assessment and calculation, which captures insurer risk at the level of the entire group, and liquidity stress test calculation. During the public hearing on the proposed S.D. 1, the Insurance Commissioner testified that passage of the proposed S.D. 1, which makes amendments to the



State's Insurance Code, and S.B. No 3083, S.D. 1, which makes amendments to article 11 of the Insurance Code, are necessary administrative measures for the Insurance Division to properly supervise the insurance industry and maintain its accreditation status with the NAIC.

Accordingly, your Committee has amended this measure by adopting the proposed S.D. 1.

Your Committee notes the concerns raised in the testimony of the Department of the Attorney General that the proposed S.D. 1 may raise issues pertaining to germaneness, as articulated in *League of Women Voters of Honolulu v. State*, 150 Hawai'i 182, 499 P.3d 382 (2021). Your Committee expressly notes that the proposed S.D. 1 was advanced upon the request of the Insurance Commissioner and Department of Commerce and Consumer Affairs, and pursuant to discussions with the Department of the Attorney General during the public hearing, your Committee finds justified reason to recommend that the proposed S.D. 1 pass Second Reading. Your committee further notes, however, that it is the intent of your Committee to fully comply with the requirements as articulated in *League of Women Voters*, which held that the three-readings process "begin[s] anew after a non-germane amendment changes the object or subject of a bill so that it is no longer related to the original bill as introduced".

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2394, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2394, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce and  
Consumer Protection



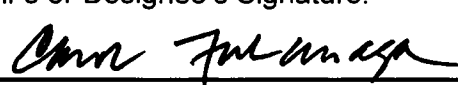
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ARRETT KEOHOKALOLE, Chair



The Senate  
Thirty-Second Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:* <b>HB2394, HD1</b>	Committee Referral: <b>CPN</b>	Date: <b>3/20/24</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.		✓		
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton				✓
<b>TOTAL</b>	<b>3</b>	<b>1</b>		<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes