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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 5, 2025
10:00 a.m.
State Capitol, Conference Room 229 and via videoconference

On the following measure:
S.B. 804, RELATING TO INSURANCE FOR HAWAII CONDOMINIUM PROPERTIES

Chair Keohokalole and Members of the Committee:

My name is Jerry Bump, and I am the Acting Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to require property insurers to offer discounts on a condominium association's annual insurance premium if the association adopts specific risk mitigation upgrades or develops comprehensive disaster response plans; require property insurers of condominiums to base premium increases on actuarial justifications that reflect actual risk reduction resulting from upgraded fire safety improvements installed in conjunction with a building fire and life safety evaluation; require property insurers of condominiums to justify premium increases above 10%; and require property insurers of condominiums to publicly report premium increases each year.

The property insurance market for condominium associations across the country, including Hawaii, currently faces significant challenges which include high premiums or

affordability, insufficient coverage, and non-renewals due to the unique risk posed by condominium buildings and their communities. This trend has impacted, and will likely continue to impact, the ability to develop new housing, particularly affordable housing in some areas. Correspondingly, condominium associations in Hawaii have increased their dependence on surplus lines insurers to provide coverage for master policies because insurers in the admitted market (admitted insurers) have been unable to appropriately meet the demand.

Currently, as few as three admitted insurers are selectively writing master policy coverage for these properties. This pool has been limited for many years in Hawaii because the risk profile of many condominiums were likely affected by factors such as an aging infrastructure and deferred maintenance. As a result, many condominiums have become increasingly reliant on surplus lines insurers to cover multiple layers in their insurance plans. This shift began years ago and has continued, even though high premiums remain prevalent in the surplus lines market and reliance on this type of insurance also contributes to premium increases.

Surplus lines insurers are unlicensed carriers that operate outside the standard regulatory framework which governs insurers in the admitted market. Under Article 8, section 431 of the Hawaii Revised Statutes, they are permitted to provide coverage in Hawaii under specific conditions. They can assume higher-risk policies that traditional admitted insurers may avoid. Thus, in situations where admitted insurers may be unwilling or unable to write certain risks, surplus lines insurers address gaps in the market which provide policyholders with necessary supplemental coverage or a critical alternative. Surplus lines insurers are not subject to the same regulations as insurers in the admitted market, e.g., state-mandated rate approvals and participation in state guaranty funds, so they operate in a more relaxed regulatory framework.

Overregulating the surplus lines insurance market could have several negative consequences. By design, surplus insurers operate with flexibility to cover unique, high-risk, or complex exposures that admitted carriers often avoid. Imposing excessive regulations, such as stringent rate approvals or coverage mandates, would limit this flexibility and discourage surplus carriers from participating in the market. This could

leave policyholders without viable insurance options for high-risk properties, leading to coverage gaps and greater financial vulnerability. Additionally, increased regulatory burdens may stifle innovation in policy design and pricing, reducing the ability of these insurers to offer customized solutions tailored to specialized risks. Ultimately, overregulation could drive insurers out of state markets, undermining their essential role in maintaining a functional and competitive insurance ecosystem.

The trade-off for this flexibility is premium volatility. The surplus lines market tends to be reactive to market conditions. As reinsurance prices and inflationary pressures rise, it will likely drive-up premiums as well.

Additionally, policyholders may face challenges related to claim disputes or carrier solvency because surplus lines insurers are not regulated in the same way as admitted insurers. To mitigate these risks, surplus lines insurers have been required to meet minimum financial standards and are often vetted by licensed surplus lines brokers.

The proposed legislation which aims to make condominium master policies available and affordable may only affect the three admitted carriers. This could lead to the unintended consequence of these carriers withdrawing from the Hawaii market altogether, further exacerbating the problem.

The Department notes that encouraging improvements to the risk profile of aging condominium properties, modernizing infrastructure, enhancing safety measures, and mitigating disaster risks could make properties more attractive, and therefore improve their insurability, within the admitted market. Enhancing current alternative dispute resolution options for condominium associations and their members or creating more robust ones may help minimize the number of costly lawsuits. By addressing these issues which contribute to the scarcity of affordable coverage for condominium associations, such efforts might attract additional insurers to Hawaii's admitted market.

The Department also notes that Senate Bill 1376, which expands the powers of the Hawai'i Property Insurance Association and Hawai'i Hurricane Relief Fund to help to stabilize the property insurance market in the State, may provide a potential layer of

coverage through two legislatively-created entities without requiring an outright state appropriation.

In conclusion, while surplus lines insurers play a vital role in filling the gaps in Hawaii's property insurance market, their prevalence highlights a need to both stabilize and encourage competition among insurers in the admitted market. Prioritizing consumer protection and balancing market stability remain a priority that the Insurance Division intends to continuously work towards.

Thank you for the opportunity to testify.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Wednesday February 5, 2025

10:00 a.m.

SB 804

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

Hawaii Insurers Council **opposes** this bill. This bill in part one mandates certain premium credits for condominium master policies if certain building repairs are done. Part two of the bill caps rate increases from the prior year for condominium master policies unless certain conditions are met. These measures may cause the three insurers in this market to further restrict insuring condominium buildings in Hawaii.

Hawaii's insurance industry operates under one of the most stringent rating schemes in the nation, which is prior approval of rates. This means that insurers may not charge a rate without the prior approval of the state. Mandating a dollar amount of premium credit for building repairs that are outside the ratemaking process does not consider the insurer's level of rate adequacy at the time. The mandated credit could cause the rate to fall below what is adequate for the insurers financial stability and therefore, ensure that insurer to reduce their book of business to meet solvency requirements of their own and that of the state.

The same theory applies to a restriction on a rate increase from that insurer's prior rate. When insurers apply for a rate increase, there is oftentimes a fair amount of back and forth

between the regulator and the insurer. If a rate increase is approved at a level that is not what the insurer believes is financially sound, the insurer may choose to cancel or non-renew policies in the future to reduce their liability.

Any building remediation should be included in an insurer's rate filing which takes into account that insurer's rate adequacy level, cost to operate, reinsurance costs as well as credits for hardening. The ratemaking process is robust in Hawaii and the Insurance Division's duty is to make sure that rates comply with the law which include provisions that prohibit rates that are excessive or inadequate while protecting consumers against discriminatory practices.

If this bill should move forward, we ask that provisions be inserted to allow the Insurance Commissioner to consider credits for remediation of a condo building in the insurer's rate filings. Part II of the bill is not necessary as these factors already exist in Hawaii's ratemaking process.

Thank you for the opportunity to testify.

SB-804

Submitted on: 2/2/2025 12:22:55 PM

Testimony for CPN on 2/5/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

As a condo owner I support all bills which will help condos control insurance costs, justifies increases, takes into account risk mitigation measures, etc. I also believe you need a provision inserted that provides for renewal of policies or cancellation to be conveyed to the policy holders at least 60 days in advance.

SB-804

Submitted on: 2/2/2025 1:28:19 PM

Testimony for CPN on 2/5/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Miri Yi	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Chairs and Members,

Mahalo for the opportunity to provide testimony **in support** of this bill.

Mahalo Nui Loa,

Miri YI

SB-804

Submitted on: 2/3/2025 2:27:46 AM

Testimony for CPN on 2/5/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Greg Misakian	Individual	Support	Remotely Via Zoom

Comments:

I support SB804.

Gregory Misakian