



**Property Casualty Insurers
Association of America**

Shaping the Future of American Insurance

1415 L Street, Suite 670, Sacramento, CA 95814-3972

To: The Honorable Rosalyn H. Baker, Chair
Senate Committee on Ways and Means

From: Samuel Sorich, Vice President

RE: **SB 2313 – Relating to Insurance**
PCI Position: Support

Date: Friday, February 22, 2008
11:00 a.m.; Conference Room 211

The Property Casualty Insurers Association of America (PCI) is an association of property/casualty insurers. There are more than 100 PCI member companies doing business in Hawaii. PCI members are responsible for approximately 45 percent of the property/casualty insurance premiums written in Hawaii.

PCI supports SB 2313 because the bill establishes a system that will combat insurance fraud in lines of insurance beyond just motor vehicle insurance. The successful execution of SB 2313's strengthened attack on insurance fraud will lower insurance costs for Hawaii consumers and businesses.

SB 2313 replaces the existing limited fraud investigation unit with a new branch within the insurance division. The bill provides this new division branch with direction to prevent, to investigate, to prosecute and to educate the public on insurance fraud and gives the branch the authority to carry out that direction. The sound operation of the new division branch, in addition to SB 2313's clear definition of "insurance fraud" and the bill's penalties for acts of insurance fraud, creates a system that will effectively address the serious problem of insurance fraud.

SB 2313 offers the opportunity to significantly improve efforts to combat insurance fraud. PCI requests that the Committee vote Yes on the bill.



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1415 L Street, Suite 670, Sacramento, CA 95814-3972

To: The Honorable Rosalyn H. Baker, Chair
Senate Committee on Ways and Means

From: Samuel Sorich, Vice President

RE: **SB 2315 SD1 – Relating to Insurance**
PCI Position: Support

Date: Friday, February 22, 2008
11:00 a.m.; Conference Room 211

The Property Casualty Insurers Association of America (PCI) is an association of property/casualty insurers. There are more than 100 PCI member companies doing business in Hawaii. PCI members are responsible for approximately 45 percent of the property/casualty insurance premiums written in Hawaii.

PCI supports SB 2315 SD 1 because the bill provides fair treatment to reciprocal insurers and their attorneys-in-fact. The bill assures that reciprocal insurers and their policyholders are given the same exemption from the general excise tax on gross premiums that is extended to insurers that operate under other business structures.

SB 2315 SD 1 is fair, reasonable and good public policy. PCI requests the committee to vote Yes on the bill.

AMERICAN COUNCIL OF LIFE INSURANCE
TESTIMONY IN SUPPORT OF SB 2313,
RELATING TO INSURANCE

February 22, 2008

Via E Mail: testimony@capitol.hawaii.gov
Senator Rosalyn H. Baker, Chair
Committee on Ways and Means
State Senate
Hawaii State Capital, Conference Room 211
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Baker and Committee Members:

Thank you for the opportunity to testify in support of SB 2313, relating to Insurance.

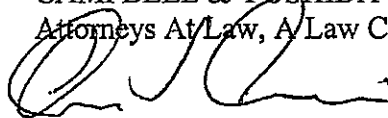
Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred fifty-three (353) member company's account for 93% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred sixty-one (261) ACLI member companies currently do business in the State of Hawaii.

Insurance fraud is costly to both the insurance industry and consumers alike.

Accordingly, ACLI is in support of SB 2313, which expands the authority of the Insurance Division's insurance fraud investigations unit under the Department of Commerce and Consumer Affairs to prevent, investigate, and prosecute insurance fraud beyond motor vehicle insurance case to all lines of insurance except worker's compensation.

Again, thank you for the opportunity to testify in support of SB 2313.

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LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Friday, February 22, 2008
11:00 a.m.

TESTIMONY ON SENATE BILL NO. 2313 - RELATING TO INSURANCE

WRITTEN TESTIMONY ONLY

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is J. P. Schmidt, State Insurance Commissioner ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department strongly supports this bill. This bill is similar to a consensus bill developed in meetings with private plaintiffs' attorneys, insurance agents' associations, health insurers, property and casualty insurers and life insurers in 2004. However, this bill does not include the workers' compensation insurance provisions that were included at that time.

The purpose of this bill is to expand the authority of the Insurance Division's insurance fraud investigations unit ("IFIU") to investigate and prosecute insurance fraud in all lines of insurance, except workers' compensation insurance, within the State of Hawaii.

Specifically, this bill:

- (1) Expands the definition of insurance fraud to include the filing of false insurance applications and fraudulent sales of insurance, whereas the current definition applies only to the filing of claims;

- (2) Establishes the offense of insurance fraud and criminal and civil penalty provisions in the Insurance Code, Hawaii Revised Statutes ("HRS") chapter 431 ("Insurance Code");
- (3) Allows the filing of administrative and civil insurance fraud actions, whereas current law authorizes criminal prosecution only; and
- (4) Establishes the IFIU in Article 2 of the Insurance Code governing the administration of insurance laws, rather than in Article 10C governing motor vehicle insurance.

Currently, the jurisdiction of the insurance fraud investigations branch is governed by HRS § 431:10C-307.8. According to the Attorney General's Office, the current placement of the IFIU in Article 10C, rather than in Article 2, restricts the IFIU's jurisdiction to motor vehicle insurance fraud. This placement causes confusion and may prompt arguments by defense counsel that the IFIU lacks authority to prosecute insurance fraud in other insurance lines. The original intent of the Fraud Unit was to cover all lines of insurance.

This bill corrects this problem and allows the Insurance Division to pursue fraud in any line of insurance (except workers compensation insurance). Whenever any state has focused on pursuing and prosecuting insurance fraud, there has been a reduction in premiums for that state's citizens. The Coalition Against Insurance Fraud recently published its Hall of Shame, the worst cases of fraud across the nation. Included were several cases of health insurance fraud, homeowner's insurance fraud, life insurance fraud, business liability fraud as well as auto insurance fraud. We know fraud occurs in every line of insurance. It is a significant cost that, if reduced, will reduce premiums for our citizens.

Additionally, this bill will have the positive effect of assisting in the workload of other state law enforcement agencies by allowing the insurance fraud investigations unit to take action in preventing, investigating, and prosecuting all types of insurance fraud. With the passage of this bill, a more comprehensive approach will be taken to deter perpetrators and make them aware that insurance fraud of any type will not be tolerated.

Additional staffing and/or funding is not being requested with the initial passage of this bill. The Insurance Division will evaluate additional staffing needs at a future date, should it be determined that additional staffing may result in greater prevention and deterrence of insurance fraud.

Insurance fraud continues to affect every household in Hawaii and every employer through increased premiums. This bill will improve the Department's ability to

deter insurance fraud and thereby can be expected to save Hawaii's consumers and employers money.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

THE SENATE
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON WAYS AND MEANS

Sen. Rosalyn H. Baker, Chair
Sen., Shan S. Tsutsui Vice Chair

Hearing Date: Friday, February 22, 2008
Time: 11:00 a.m.
Place: Conference Room 211, State Capitol

TESTIMONY OF FRED GALDONES, ILWU LOCAL 142
RE: SB 2313, RELATING TO INSURANCE

Thank you for the opportunity to present testimony regarding SB 2313.

S.B. 2313 expands the insurance division's fraud unit to investigate and prosecute insurance fraud beyond motor vehicle cases but excludes workers compensation fraud from the scope of the unit's responsibilities..

S.B. 2313 recognizes that further government intervention in the workers' compensation area is unnecessary because Section 386-98 HRS already provides a means of addressing fraud. Section 386-89(b) HRS permits reopening of a claim when fraud is practiced upon the Director or any party. An insurer may recoup "all payments made for medical care, medical services, vocational rehabilitation services, and all other services rendered for payment under this chapter." A fine of \$10,000 per violation may be assessed under Section 386-98(e)(1) HRS. Attorneys' fees and costs can be reimbursed under Section 386-98(e)(6) HRS. Criminal penalties can be imposed, including misdemeanors and Class C felonies, pursuant to Section 386-98(d) HRS. Used properly, these penalties are more than adequate deterrence to fraud.

If the committee recognizes an appropriate need to expand the insurance division's fraud unit in the Department of Commerce and Consumer Affairs to other kinds of insurance beyond motor vehicle insurance, ILWU Local 142 would support such action, provided the bill continues to exclude workers' compensation from the unit's responsibilities.

**SENATE COMMITTEE ON
WAYS AND MEANS**

February 22, 2008

Senate Bill 2313 Relating to Insurance

Chair Baker and members of the Senate Committee on Ways and Means, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders. State Farm supports Senate Bill 2313 Relating to Insurance.

State Farm supports this bill as written. Senate Bill 2313 proposes to expand the insurance fraud investigations branch to cover other lines of insurance. This measure represents a compromise reached with the industry and the Department of Commerce and Consumer Affairs on the terms of the expansion.

Thank you for the opportunity to present this testimony.

Senate Committee on Ways and Means
Senator Roslyn Baker, Chair

Senate Bill 2313: Relating to Insurance

Hearing Date: February 22, 2008 Time: 11:00 am

Chair Baker and members of the Committee, my name is Cynthia Hayakawa, Executive Director of the National Association of Insurance and Financial Advisors (NAIFA) Hawaii, an organization made up of life insurance agents and financial advisors across Hawaii.

We support SB 2313. This measure will establish a new part in Chapter 431, HRS, under "Insurance Fraud". A new "insurance fraud investigations branch" will also be established to regulate insurance fraud.

This measure on insurance fraud has been worked on from 2004 in cooperation with Insurance Division. In the 2005, 2006, and 2007 legislative sessions, this consensus draft was introduced which represented the stakeholders -- State Farm, HMSA, ILWU, HIIAA ("Hawaii Independent Insurance Agents Association"), HIC ("Hawaii Insurers Council"), ACLI ("American Council of Life Insurers") and NAIFA Hawaii, as well as the Insurance Division.

Thank you for the opportunity to express our support and we ask for your favorable consideration.

