

**HB 1074**



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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Monday, April 6, 2009  
9:30 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON HOUSE BILL NO. 1074, H.D. 2, S.D. 1 – RELATING TO INSURANCE.**

TO THE HONORABLE DONNA MERCADO KIM, 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"). Thank you for hearing this bill. The Department strongly supports this Administration bill, with requested amendments.

The House Finance Committee heard the companion bill, Senate Bill No. 892, H.D. 1, on April 2, 2009, and passed House Draft 2.

The purpose of this bill is to update the Insurance Code, Hawaii Revised Statutes ("HRS") chapter 431, by:

- (1) Including in HRS §§ 26-9(o) and 431:2-215(a) an express reference to the drivers education fund underwriters fee in HRS § 431:10G-107;
- (2) Adding in HRS § 431:3-302.5(c) the reference to rules governing audited financial statements;

- (3) Amending HRS §§ 431:6-317 and 431:6-322 to clarify the allowable investments in common stocks, common trust funds, mutual funds, and exchange traded funds;
- (4) Including in HRS § 431:7-206 a time limit for claiming the retaliatory tax credit;
- (5) Clarifying in HRS § 431:8-310(b) that surplus lines brokers licenses are issued to licensed producers with property or casualty lines of authority or to property and casualty coverages sold for personal use;
- (6) Allowing under HRS § 431:9A-222.5 a limited adjuster license for crop insurance claims;
- (7) Amending HRS § 431:9A-124(b) regarding the number of continuing education credit hours required for insurance producer license renewal; and
- (8) Allowing under HRS §§ 431:14-104 and 431:14-105 the acceptance of electronic rate filings and payments for all property and casualty insurance filings.

The clean-up of these provisions is necessary so that Hawaii is uniform with the best practices in insurance regulation.

HRS §§ 26-9(o) and 431:2-215(a) currently refer to the drivers education fund underwriters fee in HRS § 431:10C-115 for motor vehicle insurance policies, but do not refer to the drivers education fund underwriters fee in HRS § 431:10G-107 for motorcycle and motor scooter insurance policies. Both fees should be referenced in these sections.

HRS § 431:3-302.5(c) currently requires insurers to prepare annual audited financial statements according to annual statement instructions and accounting practices and procedures manuals of the National Association of Insurance Commissioners ("NAIC"). The NAIC will be removing these provisions from the annual statement instructions and require state insurance regulators to expressly adopt these provisions by January 1, 2010, either by statute or rule, as a condition for NAIC accreditation. The Commissioner is currently proceeding to adopt these provisions in

the administrative rules. Thus, the statutory reference to NAIC annual statement instructions will be outdated upon adoption of the rules.

HRS §§ 431:6-317 and 431:6-322 allow insurers to meet their capital and reserve requirements in HRS § 431:6-201 with investments in common stocks, common trust funds, mutual funds, and exchange traded funds, subject to certain limitations. After meeting the requirements in HRS § 431:6-201, insurers may invest any of their funds in these securities. The investment statutes in Article 6 were amended last session to provide greater flexibility to insurers. These amendments are made for clarification purposes.

HRS § 431:7-206 allows a domestic insurer to claim credit for retaliatory taxes against the premium tax. This amendment provides a deadline for claiming the credit similar to that imposed for the regulatory oversight tax credit in HRS § 431:7-207(d).

HRS § 431:8-310(b) provides for the issuance of a surplus lines broker license to anyone with an insurance producer license and HRS § 431:9A-124(b) addresses the number of credit hours required for insurance producer license renewal. These provisions of the bill adopt the recommendations of the Uniformity Subgroup of the NAIC Producer Licensing Working Group to attain uniformity and reciprocity with other states to:

- (1) Expressly limit the issuance of the surplus lines broker license to property and casualty insurance producers;
- (2) Revise the number of continuing education credit hours required as a prerequisite for license renewal for insurance producers; and
- (3) Include ethics training in the continuing education requirement.

All states have agreed to reciprocity in insurance producer licensing.

Accordingly, many states already have adopted the NAIC's recommendations. Achieving nationwide uniformity in insurance licensing will make insurance regulation less burdensome and complicated for insurers, producers, and regulators, and this in turn will benefit the public. This proposal is an important step in achieving that goal.

All resident insurance producers will be required to earn 24 credit hours of continuing education, including three credit hours of ethics training or insurance laws and rules.

HRS § 431:9-222.5 currently provides for the issuance of a workers' compensation limited lines adjuster's license, but does not provide for other types of limited licenses. There is a certain need for adjusters to assess crop insurance losses. This section expands limited lines adjuster's licenses to include crop adjusters.

Amendments to HRS §§ 431:14-104 and 431:14-105 will allow insurers to submit all property and casualty insurance rate filings electronically.

Hawaii is participating in the NAIC's System for Electronic Rate and Form Filing ("SERFF"). SERFF enables companies to send and states to receive, comment on, and approve or reject insurance industry rate and form filings, and payments. It offers a technological solution to address the rate and form filing and approval process and offers a decentralized point-to-point, web-based electronic filing system. SERFF facilitates communication, management, analysis, and electronic storage of documents and supporting information, as well as providing up-to-date filing requirements when they are needed. It is designed to improve the efficiency of the rate and form filing and approval process and to reduce the time and cost involved in making regulatory filings.

The Department respectfully requests the following amendments:

**1. Section 3 amending HRS § 431:3-302.5**

Prior to House Finance Committee's recent hearing on Senate Bill No. 892, S.D. 1, H.D. 1, the Department and HMSA reached consensus on acceptable language for section 3 amending HRS § 431:3-302.5(c).

The deletion of the commas after the words "audited" and "consolidated" are needed so that the phrase "audited consolidated or combined financial statements" in subsection (c) is consistent with the language used in subsection (b).

The Department respectfully requests the following consensus language, such that section 3 on page 6, line 4, reads as follows:

SECTION 3. Section 431:3-302.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The audit required in subsection (a) and the audited~~[.]~~ consolidated~~[.]~~ or combined financial statements as may be approved under subsection (b) shall be prepared in accordance with the National Association of Insurance Commissioners' ~~[annual statement instructions,]~~ accounting practices and procedures manual and rules adopted by the commissioner following the practices and procedures prescribed by the National Association of Insurance Commissioners~~['accounting practices and procedure manuals].~~"

**2. Effective date for section 3 of the bill**

This version of the bill contains an effective date of July 1, 2009, including section 3 of the bill.

The Department is currently proceeding to adopt new administrative rules relating to the Annual Financial Reporting Model Regulation (or model audit rule), with the rules effective on January 1, 2010.

Since the NAIC's annual statement instructions will be effective through 2009, the Department respectfully requests amending the effective date for section 3 of the bill to January 1, 2010, such that section 13 of the bill on page 16, line 12, reads as follows:

SECTION 13. This Act shall take effect on July 1, 2009, provided that section 3 of the bill shall take effect on January 1, 2010.

We thank the Committee for the opportunity to present testimony on this measure and respectfully request that an S.D. 2 be issued with the requested amendments.

# HMSA



Blue Cross  
Blue Shield  
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

April 6, 2009

The Honorable Donna Mercado Kim, Chair  
The Honorable Shan S. Tsutsui, Vice Chair  
Senate Committee on Ways and Means

## Re: HB 1074 HD2 SD1 – Relating to Insurance

Dear Chair Kim, Vice Chair Tsutsui and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on HB 1074 HD2 SD1. We are requesting an amendment to Section 3 of this measure but take no position on the remainder of the bill.

Section 3 of this measure contains language directing the Insurance Division to adopt the National Association of Insurance Commissioners' (NAIC) Model Audit Regulation (MAR) into administrative rules. The NAIC has requested that the 12 states in the nation that currently reference the NAIC Annual Statement Instructions in statute instead adopt the MAR. Hawaii is one of the 12 states whose statutes should be updated.

Since this measure has been making its way through the legislative process, we have been working with the Insurance Division on language to ensure that the state maintains its NAIC accreditation and that the proposed Administrative Rules will adhere to MAR. As such, we support the below proposed amendments being made to Section 3, lines 4 – 14 of HB 1074 by the Insurance Division:

SECTION 3. Section 431:3-302.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The audit required in subsection (a) and the audited, consolidated, or combined financial statements as may be approved under subsection (b) shall be prepared in accordance with the National Association of Insurance Commissioners’ ~~[annual statement instructions,]~~ accounting practices and procedures manual and rules adopted by the commissioner following the practices and procedures prescribed by the National Association of Insurance Commissioners[ ~~‘accounting practices and procedure manuals’.~~”

We encourage the Committee to amend the bill with this language to ensure the state’s continued compliance with NAIC accreditation standards. Thank you for the opportunity to provide comments.

Sincerely,

Jennifer Diesman  
Assistant Vice President, Government Relations

TESTIMONY ON H.B. NO. 1074, H.D. 2, S.D. 1  
RELATING TO INSURANCE

SENATE COMMITTEE ON WAYS AND MEANS

Sen. Donna Mercado Kim, Chair

Sen. Shan S. Tsutsui, Vice Chair

Monday, April 6, 2009, 9:30 a.m.  
State Capitol, Conference Room 211

WRITTEN TESTIMONY ONLY

My name is Gerald C. Yoshida, an attorney in the Honolulu law firm of Char Hamilton Campbell & Yoshida. Our firm provides legal services to a number of captive insurance companies currently licensed in the State of Hawaii. I am also Chairman of the Legislative Committee of the Hawaii Captive Insurance Council (HCIC), a nonprofit trade organization of captive insurance companies and service providers who comprise and support Hawaii's captive insurance industry.

Our testimony will be limited to our support of Sections 4 and 5 of H.B. No. 1074, H.D. 2, S.D. 1. These sections clarify that insurers may meet their capital and reserve requirements in Hawaii Revised Statutes ("HRS") § 431:6-201 with investments in common stocks, common trust funds, mutual funds, and exchange traded funds, subject to certain limitations. After meeting HRS § 431:6-201 requirements, insurers may invest any of its funds in these securities. We believe the clarification provided in Sections 4 and 5 of H.B. No. 1074, H.D. 2, S.D. 1, would provide Hawaii captives greater flexibility in investing their assets.

Thank you for this opportunity to submit testimony on this measure.

Respectfully submitted:

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COMMENTS OF THE AMERICAN COUNCIL OF LIFE INSURERS  
IN SUPPORT OF H.B. 1074, HD 2, SD 1, RELATING TO INSURANCE

April 6, 2009

Via E Mail: [wamtestimony@capitol.hawaii.gov](mailto:wamtestimony@capitol.hawaii.gov)

Hon. Senator Donna Mercado Kim, Chair  
Committee on Ways and Means  
State Senate  
Hawaii State Capital, Conference Room 211  
415 S. Beretania Street  
Honolulu, HI 96813

Dear Chair Mercado Kim and Committee Members:

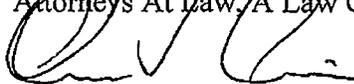
Thank you for the opportunity to comment in support of House Bill 1074, HD 2, SD 1, relating to Insurance.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred forty (340) member company's account for 94% 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 fifty-three (253) ACLI member companies currently do business in the State of Hawaii.

ACLI generally supports legislation which modernizes a State's Insurance laws to conform to uniform national standards and which updates its methods of doing business by using current technology. ACLI supports HB 1074, HD 2, SD 1, which, among other matters, updates Hawaii's Insurance Code to conform to uniform national standards and permits electronic rate filings and payments for all lines of insurance.

Again, thank you for the opportunity to comment in support of House Bill 1074, HD 2, SD 1.

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