HB 2851

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

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SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION
TESTIMONY REGARDING HB 2851 HD 1
RELATING TO INSURANCE

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 16, 2010
TIME: 9AM
ROOM: 229

As amended, this measure temporarily increases certain insurance gross premiums tax from July 1, 2010 until June 30, 2015. The increases are presently in blank amounts.

The Department of Taxation (Department) **opposes the tax increases** contained in this measure and recommends that this measure be held.

A TAX INCREASE—The Department opposes this tax increase. The Department does not support tax increases, especially increases that will simply increase the costs to consumers at a time when taxpayers cannot afford such increases.

REVENUE IMPACT – This bill would result in an indeterminate revenue gain, as amended, due to the blank tax amounts.

If all of the tax rates were increased by the same proportion, then the total revenue from the taxes on insurance premiums would rise by that same proportion. In FY 2009, total revenue from taxes on insurance premiums was $93,720,000, therefore a 10% increase in all insurance premium tax rates would raise about $9.4 million. A 5% increase in all of the insurance premium tax rates would raise about $4.7 million.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
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RONALD BOYER
ACTING DIRECTOR

RODNEY A. MAILE
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Tuesday, March 16, 2010
9:00 a.m.

TESTIMONY ON HOUSE BILL NO. 2851, H.D. 1 – RELATING TO INSURANCE.

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

My name is J.P. Schmidt, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department strongly opposes this bill.

The purpose of this bill is to increase the premium tax rates in Hawaii Revised Statutes ("HRS") §§ 431:7-202, 431:8-205(c), and 431:8-315(a). This version of the bill contains blank percentages for the premium tax rate.

HRS § 431:10-218 mandates that an insurance policy's stated premium "be inclusive of all fees, charges, premiums, or other consideration charged for the insurance or its procurement." All premium taxes, therefore, that insurers currently pay, are built into the premiums that consumers pay. Increases in the rates of premium taxes will cause insurers to hike the premiums that consumers pay and thereby put more pressure on fragile household and business budgets. This bill will have a direct affect on consumers in regards to everyday personal and commercial purchases by increasing the costs of insurance which covers homeowners, motor vehicle, workers compensation, liability, and title.

Additionally, higher premium taxes discourage new insurers from coming to do business in Hawaii in difficult risk areas such as hurricane and commercial liability. This reduces competition and makes it harder and more expensive for Hawaii consumers to find coverage.

The Department notes that Hawaii's insurance premium tax rates are already the highest in the country. The Department recognizes the precarious financial condition that the State is currently facing and realizes that all sources of revenue enhancement must be explored. However, as written, this bill will result in more harm than good for Hawaii's consumers and overall economy.

We thank this Committee for the opportunity to present testimony on this matter and respectfully request that this bill be held.

HAWAII INSURERS COUNCIL
A trade association of property and casualty insurance companies

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Telephone (808) 525-5877
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Alison Powers
Executive Director

TESTIMONY OF JOHN SCHAPPERLE

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

Tuesday, March 16, 2010
9:00 a.m.

H.B. 2851, H.D. 1

Chair Baker, Vice-Chair Ige and members of the Committee, my name is John Schapperle. I am the President of Island Insurance Companies and Chairman of the Hawaii Insurers Council, a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. I am testifying today on behalf of the Hawaii Insurers Council and our eleven member companies that underwrite approximately 45% of all property and casualty insurance premiums in the state. Our member companies include AIG, Allstate, DTRIC, Farmers Insurance Hawaii, Fireman's Fund, First Insurance, Island Insurance, Liberty Mutual, Progressive, SeaBright, and Zephyr.

The Hawaii Insurers Council **opposes** H.B. 2851, H.D. 1 because this bill proposes a premium tax increase – particularly in light of the numerous other government imposed financial burdens already borne by the property and casualty insurance industry in addition to the premium tax.

Property and casualty insurance is a risk management tool that is integral to society. In most cases it is not optional but is compulsory and mandated to be purchased and kept in force by law, contract, or other business arrangement. The four major lines of property and casualty insurance are motor vehicle insurance, workers' compensation insurance, homeowners and business property loss insurance, and general liability insurance.

This bill would increase premium taxes for property and casualty insurers by an unknown amount. If enacted, any increase in premium tax would be included in future rate filings by insurers and the financial impact of the increase will be felt by virtually every homeowner, tenant, motorist, property owner, consumer, and business in Hawaii. Because of the compulsory nature of insurance coverage, most policyholders would only be able to avoid the consequences of such an increase by opting not to buy insurance or by reducing their coverage.

Hawaii already has, by far, the highest premium tax rate for property and casualty insurance in the nation at 4.265%, which is more than double the median rate of 2%.(Attached is a chart that outlines property and casualty insurance premium tax rates across the country.) Any increase would be far too high and would only add to the heavy burden already carried by residents and businesses in our state.

Hawaii's premium tax is assessed against the gross revenues of the insurance industry. The dollars generated from this tax goes to the General Fund of the State. However, unlike most other industries that are taxed and contribute to the General Fund, the property and casualty insurance industry is required to pay other government extractions (separate and apart from the premium tax) mandated by statutes reflecting social policy adopted by the Legislature. These payments that are imposed by law **in addition to our payment of the premium tax** include the following:

1. We are required by statute to pay for the cost of regulating our own industry through an annual assessment for the Compliance Resolution Fund ("CRF") which is administered by the Department of Commerce and Consumer Affairs

and **requires insurers, excluding health insurers to contribute to the CRF up to $5 million.**

2. Our industry is required by statute to underwrite the cost of the Workers' Compensation Special Compensation Fund ("SCF") that was established by statute to pay for second injury claims of workers and to pay claims on behalf of defunct and defaulting employers. Every year a percentage assessment is calculated and charged to workers' compensation insurers based upon their market share. There is no cap on the potential liability to the SCF that insurers must bear. **It is noteworthy that workers' compensation insurers have been informed that the percentage assessment for 2010 is 7.2% of their workers' compensation premiums!**

3. As part of our scheme of no-fault motor vehicle insurance coverage, the Hawaii Joint Underwriting Plan ("HJUP") was established by statute and imposed by law upon the motor vehicle insurance industry to insure high-risk drivers and drivers who are indigent and cannot afford to pay for insurance. The motor vehicle insurance industry is required to underwrite the cost of providing **free** motor vehicle insurance coverage to qualified indigent drivers. In addition, the industry is also required to cover the insured losses attributable to high-risk drivers through the HJUP. **There is no dollar cap on the amount insurers must bear to underwrite the HJUP.**

4. Another mandated financial burden imposed on property and casualty insurers is through the Hawaii Property Insurance Association ("HPIA") which was established by statute to enable the HPIA to provide coverage to residential property owners with high-risk homes especially those in certain high-risk lava flow zones. HPIA provides homeowners insurance to such residents through an insurance pool underwritten by property insurance carriers in the event that the loss reserves of that insurance pool are inadequate to cover the insured losses of

the HPIA. **In such a contingency the property insurance carriers must bear the financial burden of the excess losses of the HPIA fund in an amount up to 2% of their respective annual direct written premiums.**

5. The Hawaii Insurance and Guaranty Association ("HIGA") is again another statutorily created fund that subjects all property and casualty insurers to annual assessments to ensure that policyholders and claimants of insolvent insurance carriers receive up to $300,000 in insurance benefits. If HIGA's fund is short and unable to cover losses attributable to an insolvent insurance carrier, **then the other solvent property and casualty insurers must pay an annual assessment of up to 2% of their respective direct written premiums to the HIGA fund to cover those losses.**

6. Much attention has been given to tapping for the benefit of the General Fund the approximately $150 million reserve in the now dormant Hawaii Hurricane Relief Fund ("HHRF"). But those millions of dollars would not be in HHRF's reserve fund were it not for the payments into that fund that the property and casualty insurance industry made over a six year period to build it up through statutorily required assessments. During that time, all property and casualty insurance premiums (excluding motor vehicle insurance) were surcharged 3.75% in order to build up this fund. **The HHRF statute still remains intact and the need to again surcharge property and casualty insurance premiums may yet arise should we experience another recurrence of a catastrophe like Hurricane Iniki.**

7. Despite the millions of dollars in premium taxes our industry contributes to the General Fund, we are still required to pay fees for our use of government services. Most glaring is the charges our industry is assessed for obtaining motor vehicle traffic records. Such records are an essential part of underwriting hundreds of thousands of motor vehicle insurance policies yet we must pay a fee

of $7 for each traffic abstract we obtain, of which $5 goes directly into the General Fund, rather than just covering the actual cost of retrieving the record. **Moreover, there is now pending legislation to increase the fee to $10 of which 80% will go to the General Fund.**

We wish to be good corporate citizens and support our State, especially in such dire economic times. However an increase in the premium tax on our industry is not the right solution to close that fiscal deficit. The property and casualty insurance industry already bears more than its fair share when one considers how we are already making a substantial financial contribution to the General Fund through an extraordinarily high premium tax; subsidizing, through fees and assessments, the cost of providing government services; and by shouldering the financial cost of underwriting statutorily prescribed social goals.

We therefore respectfully request that you hold this bill.

Thank you for the opportunity to testify.

National Premium Tax Rates - 2009 , Property and Casualty

Rank	State	Rate
1	Hawaii	4.27%
2	Alabama	3.60%
3	Nevada	3.50%
4	Louisiana	3.00%
5	Mississippi	3.00%
6	New Mexico	3.00%
7	W Virginia	3.00%
8	Montana	2.75%
9	Alaska	2.70%
10	Arkansas	2.50%
11	S Dakota	2.50%
12	Tennessee	2.50%
13	California	2.35%
14	Georgia	2.25%
15	Oklahoma	2.25%
16	Utah	2.25%
17	Virginia	2.25%
18	New Jersey	2.10%
19	Arizona	2.00%
20	Colorado	2.00%
21	Kansas	2.00%
22	Kentucky	2.00%
23	Maine	2.00%
24	Maryland	2.00%
25	Massachusetts	2.00%
26	Minnesota	2.00%
27	Missouri	2.00%
28	New York	2.00%
29	Pennsylvania	2.00%
30	Rhode Island	2.00%
31	Vermont	2.00%
32	Washington	2.00%
33	N Carolina	1.90%
34	Connecticut	1.75%
35	Delaware	1.75%
36	Florida	1.75%
37	N Dakota	1.75%
38	DC	1.70%
39	Idaho	1.70%
40	Texas	1.60%
41	New Hampshire	1.50%
42	Ohio	1.40%
43	Indiana	1.30%
44	Michigan	1.25%

Rank	State	Rate
45	S Carolina	1.25%
46	Iowa	1.00%
47	Nebraska	1.00%
48	Wyoming	0.75%
49	Illinois	0.50%
50	Oregon	-
51	Wisconsin	-
NAT. MEDIAN		**2.00%**

Source: PCI: 2009 PCI State Tax Guide for 2008 Property Casualty Returns

NAIFA
HAWAII

National Association of Insurance and Financial Advisors -- Hawaii
Phone: 394-3451

Seante Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

Date of Hearing: Tuesday, March 16, 2010

Time: 9:00 am

RE: HB 2851, HD 1 – Relating to Insurance

Chair Baker, Vice Chair Ige and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of insurance agents throughout Hawaii, who primarily sell life insurance, annuities, long term care and disability income policies.

We oppose HB 2851, HD 1, that will amend Section 431:7-202, HRS, by increasing the rate of the **premium tax on insurance contracts with a blank amount.** We will limit our comments to the life insurance premium tax rate and not the increase on property & casualty premium tax rate.

Insurance premium taxes are "in lieu" of the general excise tax. This measure was amended by the House Financial Committee to allow for **existing life insurance policies prior to July 1, 2010**, to continue to pay the current 2.75% tax rate due to the following HRS Section:

> **§431:10-218 Stated premium must include all charges.** (a) The premium stated in the policy shall be inclusive of all fees, charges, premiums, or other consideration charged for the insurance or for its procurement. This subsection shall not apply to surety or group insurance contracts.
>
> (b) No insurer or its officer, employee, producer, or other representative shall charge or receive any fee, compensation, or consideration for insurance which is not included in the premium specified in the policy.

Increasing the premium tax rate will only increase the cost of the life insurance contract to the consumer because the consumer will probably bear the increased tax rate since the insurance companies may include the tax into the premium cost of new life insurance contracts.

The current 2.75% tax rate on gross premiums for life insurers is equivalent to almost a 16% corporate income tax rate when current Hawaii corporate income tax rates range from over 4% to over 6% of net income.

Additionally, the components in a life insurance policy differ greatly from P&C risks. There is **cash value and an investment component that belongs entirely to the policyholder and any gains of the inside buildup does <u>not revert</u> to the insurers,** therefore, is not considered income to the insurers. This is primarily why the life insurance premium tax rate is lower than other premium tax rates.

Life insurance and annuities provide the safety net for our families, retirement income and business needs for those in our community. Life events happen to all of us and life insurance can provide for paying the bills, continue a business, and finance education in the event of the a tragedy.

We ask that the Committee hold this measure in Committee. We appreciate the opportunity to share our views.

Cynthia Hayakawa Takenaka
Executive Director

TESTIMONY ON H.B. NO. 2851, H.D.1
RELATING TO INSURANCE

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Sen. Rosalyn H. Baker, Chair
Sen. David Y. Ige, Vice Chair

Tuesday, March 16, 2010, 9:00 a.m.
State Capitol, Conference Room 229

My name is Gerald C. Yoshida, Chairman of the Legislative Committee of the Hawaii Captive Insurance Council (HCIC), a trade organization of captive insurance companies and service providers who comprise and support Hawaii's captive insurance industry. I am also 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.

HCIC opposes this bill.

When H.B. No. 2851 was heard in the House, HCIC, captive service providers, and captive owners strongly opposed this bill and requested the removal of the provision increasing premium taxes for captive insurance companies (which was found in Section 5 in the bill, as introduced). The House recognized that a premium tax increase would harm Hawaii's captive insurance industry and deleted the captive premium tax increase in H.B. No. 2851, H.D. 1. Should this bill continue to proceed, we would respectfully oppose any revision to the bill that would reinsert any similar provisions relative to captive insurance companies.

HCIC also recognizes that any increase in premium taxes, in general, will ultimately be paid by the consumer. In this regard, we oppose this bill and continue to oppose any proposal to increase premium taxes on captive insurance companies, as a captive premium tax increase would have a substantial chilling effect on Hawaii's captive industry that would ultimately result in the demise of the industry in this State and result in a decrease in overall direct and indirect captive insurance related tax revenues.

Thank you for this opportunity to comment on this measure.

Respectfully submitted:

Gerald C. Yoshida
Chair, Legislative Committee
Hawaii Captive Insurance Council
737 Bishop Street, Suite 2100
Honolulu, Hawaii 96813
Ph: 524-3800

AMERICAN COUNCIL OF LIFE INSURERS
TESTIMONY IN OPPOSTION TO HB 2851, HD 1, RELATING TO INSURANCE

March 16, 2010

Via e mail: cpntestimony@capitol.hawaii.gov
Honorable Senator Rosalyn H. Baker, Chair
Committee on Commerce and Consumer Affairs
State Senate
Hawaii State Capital, Conference Room 229
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker and Members of the Committee:

Thank you for the opportunity to testify in opposition to HB 2851, HD 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 opposes HB 2851, HD 1.

- House Bill 2851, HD1, would increase the state premium tax on life insurers from 2.75% to an ***unspecified amount*** for a temporary 5 year period beginning on July 10, 2010 and sunset on June 30, 2015. This amounts to a 25% increase in the tax burden on life insurers.

- Life insurers already pay their fair share of taxes.

    - At 2.75%, Hawaii already has one of the highest life insurance premium tax rates in the nation (the national average is 1.9%).

    - Unlike a non-insurance company which is subject to a tax on its net income, a life insurer is taxed on its gross premiums – no deductions for claims or expenses and tax must be paid whether the life insurer is profitable or not.

    - $26.2 million that life insurers already pay under the 2.75% gross premium tax = a corporate net income tax rate of 31.9% – or nearly 5 times the highest statutory corporate profit tax rate imposed by Hawaii and more than 4 times the rate imposed on banks and other financial institutions.

        - The non insurers corporate tax rate = 4.4% to 6.4% of a company's net income.

        - Banks and financial institutions rate = 7.92%.

- An increase in the premium tax even on a temporary basis, would be costly to life insurers.

    - Unlike Property and Casualty Policies (which are renewed annually or more frequently) many life insurance products (life, disability and long term care insurance policies) insure the insured for extended periods of time which, in the case of life insurance, may be as long as the insured's lifetime. As a result, life insurers do not have flexibility as do P & C insurers to adjust their premium rates to reflect cost changes due to condition & circumstances.

    - Once issued the provisions of many life insurance products cannot be changed, including the cost of its premiums. For example, if a 25 year old purchases a $1M "whole life" insurance policy on his life paying a premium of $100 a month the premium remains fixed at $100 even if the insurer's cost for that insurance increases.

    - With respect to new life insurance products, special pricing of a policy to take into account a temporary increase in the Hawaii market will result in an increased expense for insurers doing business in this State. Insurers will be required to decide whether to absorb the tax increase or increase their premiums in pricing Hawaii policies. Alternatively, an insurer may decide to leave the Hawaii market, thereby decreasing competition for life insurance in this State.

        - Because of the fixed nature of the policies, unless the new policies are revised to include provisions that would adjust the cost of their premiums to track the temporary increase in the premium tax, the premiums would be fixed for the life of the policy. Who would buy such a policy?

        - The insured consumer may have to pay a higher premium for the new policies. The new premium may include not only the tax increase paid by the insurer under HB 2851, HD 1, but it may also include the cost of revising its policies to address the temporary increase in the premium tax. In any event, again the unknown here is whether there will be a viable market for the life insurers' product – who will buy a policy when the cost of its premiums may be higher than those purchased after the tax increase is repealed?

- Every year Hawaii already gains increasing premium tax revenue without having to increase the premium tax rate.

- Hawaii continues to collect premium taxes on all policies still active, regardless of how long ago they were sold. Unlike the sale of other products, a life insurance policy can continue to generate tax revenue for decades.

- The sale of each new life insurance policy creates a new tax revenue stream to the State of Hawaii on top of the revenue stream generated by all the other policies already in force.

- Because more life insurance policies are sold each year and these policies are generating tax revenue on top of that already being generated by existing policies, Hawaii annually gains increased revenue from the premium tax without having to raise the rate of taxation. While some policies leave the market due to either lapse or the death of the insured, the net effect is nevertheless an overall gain in the number of policies and, thus, a net gain in tax revenue to the state.

▪ Increasing the tax rate even on a temporary basis will hurt Hawaii's insurance community and its citizens.

- Hawaii's largest domestic life insurer, Pacific Guardian Life Insurance Company, pays additional "retaliatory taxes" in other states because of Hawaii's already high premium tax rate on life insurance. Increasing the premium tax rate for life insurers will increase the amount of retaliatory taxes paid by Hawaii domestic life insurers to other states.

- Hawaii's citizens could see a price increase for life insurance.

- Because life insurers cannot adjust the premiums on existing policies, any adjustments for a tax increase would fall disproportionately on new life insurance purchasers.

- Driving up prices for young families trying to protect their futures (especially during such difficult economic times) is not in the best interests of Hawaii consumers.

▪ Life insurers already contribute substantially to Hawaii's economy:

- The life insurance industry employs approximately 3,000 people in Hawaii. Those jobs which require advanced education and specialized skills are ranked on the higher end of the pay spectrum.

- Life insurance companies invest approximately $20 billion of their assets in Hawaii's economy. About $15 billion of this investment is in stocks and bonds that help finance business development, job creation, and services in the state. Life insurers also provide $1 billion in mortgage loans on farm, residential, and commercial properties.

- o Life insurers paid $2 billion to Hawaii residents in the form of death benefits, matured endowments, policy dividends, surrender values, and other payments in 2008.

- As the proposed premium tax increase will be applied retroactively to all premiums received by insurers last year, if the bill is enacted into law they should not be subject to any penalty for underpayment of their estimated tax based on the premium tax rate in effect at the time those taxes were paid.

For the foregoing reasons, ACLI strongly opposes HB 2851, HD 1, and requests that this Committee defer passage of this bill.

Again, thank you for the opportunity to testify in opposition to HB 2851, HD 1.

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, A Law Corporation

By:____________________
OREN T. CHIKAMOTO
otc@charhamilton.com

cc Joann Waiters, Esq.

PCI
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 Commerce and Consumer Protection Committee

From: Samuel Sorich, Vice President

Re: **HB 2851 HD1 – Insurance Premium Tax Rates; Increase**
PCI Position: Oppose

Date: Tuesday, March 16, 2010
9:00 a.m.; Conference Room 229

Aloha Chairwoman Baker and Committee Members:

The Property Casualty Insurers Association of American (PCI) is opposed to HB 2851 HD1 which would increase Hawaii's already high premium tax rate from 4.265% to an undetermined amount. Hawaii already imposes the highest premium tax rate in the nation and it is substantially in excess of the national average of approximately 2.0%.

This proposed increase will hit Hawaii consumers and businesses in their pocketbooks. Like most taxes, the effects of premium taxes are largely felt by consumers – Hawaii drivers, homeowners, renters and business owners. Many of these consumers are already struggling and this premium tax rate increase will place an additional burden on these working families who must purchase insurance to comply with mandatory auto insurance laws or the demands of lenders who require homeowners insurance.

PCI opposes HB 2851 HD1 because it will increase insurance costs in Hawaii and negatively impact working families who depend on insurance.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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MEMORANDUM

TO: Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection
Via Email: CPNTestimony@Capitol.hawaii.gov

FROM: Anne T. Horiuchi

DATE: March 15, 2010

RE: **H.B. 2851, HD1 – Relating to Insurance**
Hearing: Tuesday, March 16, 2010 at 9:00 a.m., Room 229

Dear Chair Baker and Members of the Committee:

I am Anne Horiuchi, testifying on behalf of USAA. USAA, a diversified financial services company, is the leading provider of competitively priced financial planning, insurance, investments, and banking products to members of the U.S. military and their families. USAA has over 82,000 members in Hawaii.

USAA is opposed to H.B. 2851, HD1 which increases certain insurance premium tax rates. This measure will negatively impact USAA because it increases premium taxes for property and casualty insurance, as well as for life insurance.

Property and casualty insurance premium taxes in Hawaii are already high, and the increase in the tax rate originally sought in H.B. 2851 (from 4.265% to 5.331%) would certainly place Hawaii as having the highest rate for property & casualty premium taxes in the nation. With respect to life insurance premium taxes, Hawaii also has one of the highest tax rates in the nation.[1]

For these reasons, USAA opposes H.B. 2851, HD1 and respectfully requests that it be held in committee. Thank you for the opportunity to submit testimony on this matter.

1 It is our understanding that only five other states tax life insurance premiums at the same rate or higher than that of Hawaii.

SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

March 16, 2010

House Bill 2851, HD 1 Relating to Insurance

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm opposes House Bill 2851, HD 1 which increases the premium tax from 4.265% to an unspecified amount for all insurance sold except for life insurance, ocean marine insurance and title insurance. Hawaii has the highest premium tax in the nation and this far exceeds all other states. Hawaii is a very small market and each insurer plays a vital role in the availability of insurance. Raising the premium tax will cause those who can least afford insurance coverage to drop their coverage. Hawaii has argued over the decades about uninsured motorists and has done much to make the cost of mandated auto insurance coverage affordable. This increase is counterproductive to that effort. Second, Hawaii's insurance market is comprised of numerous companies large and small which make up alternatives for those seeking insurance. Raising the premium tax may cause some of these small insurers to leave the market and thus create an availability problem for Hawaii residents. We believe that the concept of a premium tax increase while inviting would be counterproductive to Hawaii's desire to have affordable insurance available.

Likewise the increase in the life insurance premium tax will also be counterproductive given the number of other states which have a retaliatory provision. This provision would charge Hawaii producers who sell life insurance to a person in another state the same rate as in Hawaii regardless of the other state's lower life insurance premium tax. This would also be the highest tax in the nation. The result could be that life insurance will not be sold by Hawaii producers out of state.

Thank you for the opportunity to present this testimony.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INSURANCE PREMIUMS, Increase rate

BILL NUMBER: HB 2851, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 431:7-202 to increase the tax rate on authorized insurers, other than life insurance contracts, ocean marine insurance contracts, and real property title insurance contracts from 4.265% to _____%; increases the tax rate on life insurance contracts from 2.75% to _____% for contracts entered into on or after July 1, 2010; increases the tax rate on ocean marine insurance contracts from .8775% to ______%; increases the tax rate on real property title insurance contracts from 4.265% to______%.

Amends HRS section 431:8-205 (gross premiums) to increase the tax rate from 4.68% to ____%.

Amends HRS section 431:8-315 to increase the tax rate on surplus lines brokers from 4.68% to_____%.

This act shall be repealed on June 30, 2015; provided that HRS sections 431:7-202(a) through (d), 431:8-205(c), and 431:8-315(a) amended by this act, shall be reenacted in the form in which they existed on the day prior to the effective date of this act.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: It appears that this measure temporarily increases the insurance tax rates in an attempt to generate additional revenues to address the state's financial crisis. The state needs additional revenues and while the easiest thing to do is increase taxes on businesses, any increase in costs to a business will, not doubt, be passed on to taxpayers in the form of higher prices of goods and services. In a down economy, taxpayers are examining their spending priorities and paring back their spending - a concept that state government has to adopt to regain control of their finances. At a time when taxpayers are doing more with less, government should do the same.

Given that the insurance premiums tax is imposed in-lieu of the general excise and net income taxes, should lawmakers increase rates under those taxes, the premiums tax should also share in some of the increased burden. Inasmuch as the vagaries of the legislative process may have some measures approved while not others, such an increase in tax rates across the board should pass as part and parcel of the same measure to insure that all participate in the bail out of state finances.

Digested 3/10/10