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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION
& COMMERCE

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Thursday, March 30, 2011
2:05 p.m.

**TESTIMONY ON SENATE BILL NO. 1484, S.D. 1, H. D. 1 – RELATING TO
INSURANCE.**

TO THE HONORABLE ROBERT HERKES, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs
("Department"). The Department supports the intent of this bill.

The purpose of this bill is to amend Hawaii Revised Statutes ("HRS") § 432:2-
704(a) to add an exemption from the laws governing fraternal benefit societies for
associations organized before 1880 that provide insurance and other benefits to its
members and their dependents or beneficiaries and whose members are active, retired,
or honorably discharged members of the armed forces or sea services.

These associations pre-date the enactment of fraternal benefit society laws and
are organized for the benefit of military members and their families. These associations
do not operate as commercial insurance companies and do not fall within the current
exemptions under HRS § 432:2-704(a).

The Department believes that the longevity of these associations is an indication
of the financial stability of these organizations.

We thank this Committee for the opportunity to present testimony on this matter.



Testimony in Support of SB1484, SD1, HD1
by Lauren M. Bloom
Before the House Committee on Consumer Protection & Commerce
on Wednesday, March 30 at 2:05p.m.
in Room 325

Aloha Chair Herkes and members of the committee:

My name is Lauren M. Bloom. I am the General Counsel and Vice President for Beneficiary Services and Education of the Navy Mutual Aid Association (“Navy Mutual”). I am writing on Navy Mutual’s behalf in support of SB1484, SD1, HD1. The passage of will clarify SB1484, SD1, HD1 Navy Mutual’s regulatory status in Hawaii. It is the Senate companion to HB 1620 which this Committee in its wisdom passed out in a previous hearing.

Background

Navy Mutual is an unincorporated, not-for-profit mutual aid association and Congressionally-chartered veterans service organization that provides members of the Sea Services (Navy, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and the U.S. Public Health Service) with life insurance and survivor benefits at the lowest possible net cost. Navy Mutual was formed in 1879 to provide these benefits to Civil War veterans and their families, and it is still performing this critical mission today.

At this time, however, Navy Mutual is taking proactive steps to ensure that its regulatory status is clear. Navy Mutual’s concern is based upon its recent experience in three states that interpreted their fraternal benefit codes so that Navy Mutual was not exempted from regulation. In each of those cases, the respective insurance codes were amended to make clear that Navy Mutual was to be treated like other exempt fraternal benefit associations who provide services to members of hazardous occupations. Navy Mutual respectfully requests Hawaii to make a similar legislative change.

Navy Mutual’s Experience in Virginia, the Carolinas and Maryland

In the 1990s, Navy Mutual received an inquiry from the Department of Insurance in its domiciliary state, Virginia, concerning its regulatory status. After an initial inquiry and informal hearing, the Virginia Department recognized the public policy benefits of making Navy Mutual’s unique products and survivor services available to Sea Service members, but concluded that Navy Mutual did not necessarily fit neatly within the “hazardous occupation” exemption in Virginia’s version of the Model Fraternal Code. The Virginia Department assisted Navy Mutual in going to the Virginia Legislature to add the following express exemption from regulation to Virginia’s insurance statutes:

Any association, whether a fraternal society or not, which was organized before 1880 and whose members are officers or enlisted, regular or reserve, active, retired, or honorably

discharged members of the Armed Forces or Sea Services of the United States, and a principal purpose of which is to provide insurance and other benefits to its members and their dependents or beneficiaries.

After this resolution, Navy Mutual believed that Virginia's position was unique, and that the remaining states categorized Navy Mutual as exempt from regulation under the "hazardous occupation" exemption. In 2005, however, Navy Mutual received an inquiry from the North Carolina Department of Insurance and, during the inquiry an attorney from the North Carolina Attorney General's Office informally opined that Navy Mutual did not meet the letter of that state's "hazardous occupation" exemption. Navy Mutual did not agree with that viewpoint but, rather than further argue the legal merits, Navy Mutual (with the support of the Department of Insurance) brought the issue to the North Carolina Legislature to clarify North Carolina's statutes to everyone's satisfaction. In 2007, the North Carolina State Legislature amended the state's Insurance Code to expressly exempt Navy Mutual from regulation by adding the same exemption that had been adopted in Virginia. *See* N.C. Gen. Stat. § 58-24-185(a)(6).

Since that time, while Navy Mutual believes that it continues to fall within the long-standing exemption for hazardous occupations already set forth in the Model Fraternal Code, Navy Mutual has concluded that it would be best for all concerned to proactively seek clarification of its regulatory status in other states. In this line, Navy Mutual initiated contact with the South Carolina Department of Insurance in 2008 and, with the Department's support, Navy Mutual obtained from the South Carolina Legislature an express regulatory exemption similar to those granted by Virginia and North Carolina. In 2009, Navy Mutual initiated contact with the Maryland Department of Insurance and, once again, received the department's support in obtaining from the Maryland Legislature an express regulatory exemption similar to those granted by Virginia, North Carolina and South Carolina.¹

Although, **Navy Mutual has always been treated as exempt from the definition of fraternal benefit societies by the Hawaii Insurance Commission**, taking a pro-active approach, I recently met with Paul Yuen, Supervising Attorney for the Hawaii Insurance Commission, to explain Navy Mutual's situation and request an opinion as to whether Navy Mutual falls within Section 432:2-704 of Hawaii's Insurance Code. Mr. Yuen initially opined that no legislative change was needed. After further consideration and discussion, however, he recommended that Navy Mutual seek legislative clarification of its status as a desirable precaution. It is my understanding that the Hawaii Insurance Division does not object to Navy Mutual's efforts to do so.

¹At the end of 2009, I met with representatives of the Florida Department of Insurance to discuss Navy Mutual's regulatory status. After considering the matter, the Florida Department issued a letter confirming that Navy Mutual qualified for exemption from regulation under Florida's Fraternal Code, which meant that no legislative clarification was needed.

Please note, that there is only a nominal cost to the State in having Navy Mutual and others like it from being exempt from the definition of fraternal benefit societies.² In Navy Mutual's case, the cost is only \$1,057.50 annually.³

I would like to emphasize that, in each state where this issue has previously been addressed, it has been treated as a technical one over the application of the precise wording of the Model Fraternal Code's hazardous occupation exemption. Virginia, the Carolinas, Maryland (and Florida) agreed that Navy Mutual fell within the spirit of the exemption. No state has taken the position that Navy Mutual was not entitled to an exemption, or that Navy Mutual should be treated differently from fraternal benefit organizations whose members are engaged in a hazardous occupation. In each of the states where we raised the issue, the state's insurance officials rendered valuable assistance in codifying an express statutory exemption applicable to Navy Mutual. We hope that Hawaii will agree to make the same technical correction.

Navy Mutual's Unique Value to Members

Navy Mutual insures only its Members and their families, and it provides them with many benefits that are not offered by commercial insurance companies, including one-on-one beneficiary support services; military survivor benefits education and counseling; secure storage for wills and other testamentary documents; and representation of veterans and their beneficiaries before the Veterans Administration.

In offering Membership to Sea Service personnel whose service to our country puts them in harm's way, Navy Mutual serves a uniquely deserving population, and its contracts reflect the hazardous nature of its Members' duties. For example, Navy Mutual has no war, aviation or terrorism exclusions in its benefit plans, and does not restrict the amount of insurance that Members and prospective Members can purchase based on their combat status. Recently, Navy Mutual has paid numerous claims to the families of Navy SEALs and Marines who were killed in combat in Iraq and Afghanistan. We do not believe that commercial insurers would have provided those brave combatants with similar coverage.

Navy Mutual's mission is badly needed *because* its Members serve in a hazardous occupation. Navy Mutual's Members repeatedly put themselves in harm's way as they serve our nation and, as a result, they can have tremendous difficulty obtaining life insurance beyond that offered by the federal government. To the extent Navy Mutual's Members are even able to purchase life insurance from commercial insurers, that insurance is likely to be extremely expensive and capped at relatively low levels. Navy Mutual's mission is to aid our servicemen and women by

² It is Navy Mutual's understanding that because the exemption language is so narrowly drafted only one other organization would be able to qualify and that would be the Army-Air Force Mutual Aid Association.

³ The \$1,057.50 is comprised of the \$7.50 annual fee for Fraternal Benefit Societies and the \$150 fee for non-resident producers (sellers) of the policies charged by the State's Department of Commerce and Consumer Affairs. Navy Mutual at any given time has approximately 7 in-house employees selling its policies so it would be $(\$150 \times 7) + \$7.50 = \$1,057.50$.

insuring its Members when commercial insurance companies would not, precisely because their service is hazardous.

In recognition of their unique service to the military community, Congress has granted Navy Mutual and its Army-Air Force counterpart a special federal tax exemption under §501(c)(23) of the Internal Revenue Code (*see* Letter of Congressman John J. Duncan (Oct. 16, 1984), attached as Exhibit A). Similarly, the National Association of Insurance Commissioners included in its model regulation on sales to the military an express exemption for life insurance products sold by 501(c)(23) tax exempt organizations. That model regulation has been adopted in Hawaii as HAR §16-171-603 (2010). Four other states, including Navy Mutual's domicile Commonwealth of Virginia, have already adopted identical legislation to that which we are requesting in Hawaii. Thus, ample precedent exists to support this legislative clarification.

Navy Mutual is financially strong, with over \$2 billion in assets and an A+ rating with a stable outlook from the Fitch rating agency (*see* Fitch Ratings Report (Oct. 14, 2010), attached as Exhibit B). There is not and never has been any risk to Navy's Mutual's insured Members and families, and our insurance and benefits contracts have always been honored. Navy Mutual engages in rigorous self-regulation, voluntarily submitting to annual financial and actuarial audits (*see* 2009 Annual Report, attached as Exhibit C).

Legislators need not be concerned with Navy Mutual's market conduct – we have made our insurance available to Sea Service members in Hawaii for decades without a single consumer complaint. Navy Mutual has long been a trusted part of the defense establishment (*see* Excerpt, *Final Report of on Insurance Solicitation Practice on Department Defense Installations*, presented to the Deputy Under Secretary of Defense (May 15, 2000), attached as Exhibit D), and can be relied upon to continue to provide honest, dependable service to our Hawaiian Members.

I also wish to emphasize that Navy Mutual seeks exemption only from the technical requirements of Hawaii's insurance regulations. We respect and will fully comply with all other applicable state laws, including consumer protection requirements. Our products are simple – we sell only life insurance and fixed annuities. None of our products is variable or equity-indexed. Because Navy Mutual is tax exempt and runs with a small staff and exceptionally low expenses, we are able to offer our Members high quality insurance at the lowest possible price, a key element of our mission since 1879.

Navy Mutual's presence in Hawaii is relatively small. As of today, we have only 2094 plans active in the state, of which 1297 are known to be owned by Members who are on active duty or active reserve. Approval of this legislation would make it easier for Navy Mutual to reach out to members of the Sea Services and encourage them to take advantage of the exceptional value that we offer.

There should be no doubt that Navy Mutual's mission is as vital as ever, particularly at a time when the nation is at war. It will benefit military members in Hawaii to be able to purchase Navy Mutual's products. Navy Mutual is able to provide their policies to its military members in

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Hawaii only if it retains its exempted status. Therefore, I respectfully urge you to pass SB1484, SD1, HD1 out of your committee.

Respectfully submitted,

Lauren M. Bloom

Lauren M. Bloom
General Counsel and Vice President for
Beneficiary Services and Education