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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2016

Wednesday, February 17, 2016  
9:15 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON SENATE BILL NO. 2853, S.D. 1 – RELATING TO INSURANCE.**

TO THE HONORABLE JILL N. TOKUDA, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

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

The purposes of this bill are to: (1) add a new article to chapter 431, Hawaii Revised Statutes (“HRS”), to require certain insurers and insurance groups to maintain a risk management framework, to regularly perform an own risk and solvency assessment (“ORSA”), and to annually file an ORSA summary report; (2) amend § 431:19-115(b), HRS, to cite §§ 431:3-409, 431:3-411, and 431:3-412, HRS, as being applicable to risk retention captive insurance companies, as required for accreditation by the National Association of Insurance Commissioners (“NAIC”); and (3) amend § 431K-1, HRS, to include the definitions “board of directors” and “director,” and amend § 431K-2, HRS, to include new corporate governance language from the NAIC Model Risk Retention Act for accreditation purposes.

SECTION 1 of the bill adopts the NAIC’s Risk Management and ORSA Model Act, which stems from the NAIC’s Solvency Modernization Initiative (“SMI”). The SMI is

a critical self-examination to update the United States insurance solvency regulation framework and to review international developments regarding insurance supervision, banking supervision, and international accounting standards and their use in national insurance regulation.

In 2011, the NAIC Group Solvency Issues (E) Working Group determined that the enterprise risk management and ORSA requirements were appropriate and beneficial for inclusion in the United States solvency framework. The ORSA would give state insurance regulators access to information that would improve their understanding of the insurer/insurance group and the material risks to which the insurer/insurance group is exposed, thereby benefiting solvency regulation. In addition, the ORSA would provide a group-level perspective on risk and capital.

The NAIC is requiring that all states adopt its Risk Management and ORSA Model Act by January 1, 2018, to maintain accreditation with the NAIC. Accordingly, the Department proposes adopting this bill to retain accreditation and enable adoption of the Hawaii Administrative Rules in a timely manner before the 2018 deadline.

SECTION 2 of the bill amends § 431:19-115(b), HRS, to apply supplemental provisions, rules, and exceptions for risk-based capital, as well as severability and notice provisions, to risk retention captive insurance companies for NAIC accreditation purposes.

SECTIONS 3 and 4 of the bill amend §§ 431K-1 and 431K-2, HRS, to adopt the NAIC's Model Risk Retention Act for NAIC accreditation purposes. The NAIC has required that all states licensing captive risk retention groups adopt its model act by January 1, 2017.

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

# OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Ways and Means

From: Cheryl Kakazu Park, Director

Date: February 17, 2016, 9:15 a.m.  
State Capitol, Conference Room 211

Re: Testimony on S.B. No. 2853, S.D. 1  
Relating to Insurance

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Thank you for the opportunity to submit testimony on this bill. The S.D. 1 version of this bill includes a technical change that the Office of Information Practices (“OIP”) had recommended in its prior testimony. Thus, OIP has no further concern regarding this bill, which would adopt a new article in chapter 431, HRS, relating to risk management and to own risk and solvency assessment.

Thank you for the opportunity to testify.

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Hawaii State Legislature  
Senate Committee on Ways and Means  
Hawaii State Capitol  
415 South Beretania Street  
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February 13, 2016

*Filed via electronic testimony submission system*

**RE: SB 2853, SD-1, ORSA - NAMIC's Written Testimony in Support of Legislation**

Dear Senator Jill N. Tokuda, Chair; Senator Donovan M. Dela Cruz, Vice Chair; and honorable members of the Committee on Ways and Means:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 17, 2016, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,300 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$208 billion in annual premiums, accounting for 48 percent of the automobile/homeowners market and 33 percent of the business insurance market. NAMIC has 69 members who write property/casualty and workers' compensation insurance in the State of Hawaii, which represents 30% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC supports SB 2853, SD-1, because it is closely modeled after the National Association of Insurance Commissioners' (NAIC's) ORSA Model Act, which was created after extensive evaluation, thoughtful debate, and reasoned compromise by a broad cross-section of interested stakeholders and regulators, including representatives of the national insurance trade associations, multi-state insurance companies, and interested consumer protection groups.

To date, thirty-five states have adopted the NAIC ORSA Model Act, because it reflects a reasoned approach to enhance insurer solvency and risk management in a pro-consumer protection and pro-market competition manner.

NAMIC respectfully requests that the Hawaii State Legislature pass SB 2853, SD-1, so that the Hawaii Division of Insurance (DOI) will be able to satisfy this regulatory requirement needed for the DOI to maintain its NAIC accreditation.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you would like to discuss NAMIC's written testimony.

Respectfully,

A handwritten signature in black ink, appearing to read "Christian John Rataj". The signature is fluid and cursive, with the first name "Christian" and last name "Rataj" being more prominent than the middle name "John".

Christian John Rataj, Esq.  
NAMIC Senior Director – State Affairs, Western Region

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
IN SUPPORT OF SB 2853, SD 1,  
RELATING TO INSURANCE

February 17, 2016

Via e mail: [capitol.hawaii.gov/submittestimony.aspx](http://capitol.hawaii.gov/submittestimony.aspx)

Honorable Jill N. Tokuda, Chair  
Committee on Ways and Means  
State Senate  
Hawaii State Capitol, Conference Room 211  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Tokuda and Committee Members:

Thank you for the opportunity to testify in support of SB 2853, SD 1, relating to Insurance.

Our firm represents the American Council of Life Insurers (“ACLI”), a Washington, D.C., based trade association with approximately 300 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Two hundred sixteen (216) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 88% of the annuity considerations in this State.

The NAIC approved the NAIC Risk Management and Own Risk and Solvency Assessment (“ORSA”) Model Act on September 12, 2012. The ORSA Model Act outlines the information that regulators will review when evaluating insurers’ risk management practices and solvency positions. The Model requirements enable regulators to assess current and likely future solvency – through a self-assessment and certain disclosures of all reasonably foreseeable and relevant material risks. An insurer that is subject to the ORSA requirement is expected to have a risk management framework, to regularly assess the adequacy of that risk management framework and the insurer’s current prospective solvency position, to internally document the process and results, and to provide an annual high-level summary report to the state’s regulator.

As of this writing, thirty-five have adopted ORSA.

SB 2853, SD 1, adopts the ORSA Model Act.

SB 2853, SD 1, would create uniformity between other states’ laws and Hawaii law with regard to risk management practices and solvency positions.

Accordingly, ACLI supports SB 2853, SD 1, and requests that this Committee pass it into law.

Again, thank you for the opportunity to testify in support of SB 2853, SD 1.

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