



DAVID Y. IGE  
GOVERNOR  
  
SHAN S. TSUTSUI  
LT. GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF THE DIRECTOR**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2016

Wednesday, March 16, 2016  
2:05 p.m.

**TESTIMONY ON SENATE BILL NO. 2853, S.D. 2 – RELATING TO INSURANCE.**

TO THE HONORABLE ANGUS L.K. MCKELVEY, 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.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
IN SUPPORT OF SB 2853, SD 2, RELATING TO INSURANCE

March 16, 2016

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

Honorable Angus L. K. McKelvey, Chair  
Committee on Consumer Protection and Commerce  
State House of Representatives  
Hawaii State Capitol, Conference Room 325  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair McKelvey and Committee Members:

Thank you for the opportunity to testify in support of SB 2853, SD 2, 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 National Association of Insurance Commissioners (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.

SB 2853, SD 2, adopts the ORSA Model Act.

As of October 23, 2015, thirty-three states have adopted ORSA.

Generally, ACLI supports uniform national legislation. SB 2853, SD 2, would create uniformity between other states’ laws and Hawaii law with regard to risk management practices and solvency positions. Further, Adoption of ORSA will enable the State of Hawaii to retain its accreditation with the NAIC.

Accordingly, ACLI supports SB 2853, SD 2, and requests that this Committee pass this measure into law.

Again, thank you for the opportunity to testify in support of SB 2853, SD 2.

LAW OFFICES OF  
OREN T. CHIKAMOTO  
A Limited Liability Law Company

Oren T. Chikamoto  
1001 Bishop Street, Suite 1750  
Honolulu, Hawaii 96813  
Telephone: (808) 531-1500  
E mail: otc@chikamotolaw.com

March 16, 2016

Representative Angus L.K. McKelvey, Chair  
Representative Justin H. Woodson, Vice Chair  
Committee on Consumer Protection and Commerce  
State Capitol, Conference Room 325  
Honolulu, HI 96813

**RE: SB2853 SD2, Relating to Insurance**

Dear Chair McKelvey, Vice Chair Woodson and Members of the Committee:

UHA Health Insurance supports the intent of SB2853, SD2 which would adopt the National Association of Insurance Commissioners' (NAIC) Risk Management and Own Risk Solvency Act (ORSA). In addition the bill provides certain requirements for risk-based capital and severability and notice provisions to risk retention captive insurance companies and adopts the NAIC Model Risk Retention Act.

ORSA Model Act was drafted through an extensive process 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. It is our understanding that at this time, there are thirty-five states who have adopted the NAIC ORSA Model Act.

However as Hawaii has its own unique insurance requirements, especially when it comes to health insurance, we are still evaluating ORSA's requirements and effects to ensure that there are no unintended consequences.

We do support the intent of SB2853, SD2 and recommend that it be passed so that this important discussion can continue.

Thank you for the opportunity to testify.

Respectfully submitted,

Howard Lee  
President, CEO



To: The Honorable Angus McKelvey, Chair  
The Honorable Justin Woodson, Vice Chair  
House Committee on Consumer Protection & Commerce

From: Mark Sektnan, Vice President

Re: **SB 2853 SD2 – Relating to Insurance**  
**PCI Position: Support**

Date: Wednesday, March 16, 2016  
2:05 PM, Room 325

Aloha Chair McKelvey, Vice Chair Woodson and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is pleased to support SB 2853 SD2 which would adopt the National Association of Insurance Commissioners (NAIC) Risk Management and Own Risk and Solvency Assessment Act (ORSA).

In Hawaii, PCI member companies write approximately 42.7 percent of all property casualty insurance written in Hawaii. PCI member companies write 44 percent of all personal automobile insurance, 65.2 percent of all commercial automobile insurance and 75 percent of the workers' compensation insurance in Hawaii.

ORSA requires insurers with annual premiums greater than \$500 million and insurance groups with annual premiums greater than \$1 billion to maintain a comprehensive risk management framework, appropriate to their size and complexity, to identify, assess, and manage material and relevant risks. Additionally, the qualifying insurer or insurance group must file a report annually with its lead state regulator detailing the material risks identified and the sufficiency of its capital to support the risks. The purpose of ORSA is to provide regulators with access to information to better understand the risks to which an insurer or insurance group is exposed. The adoption of ORSA is expected to become an NAIC accreditation standard.

During the lengthy process to develop this legislation at the NAIC, the Property Casualty Insurers Association and the insurance industry worked hard to ensure confidentiality protections for sensitive commercial information that insurers will be required to report. The bill maintains these important confidentiality protections. Adoption of this important model act will ensure that all insurers have a risk management framework in place and provide regulators with access to critical information needed to assess the risks insurers are exposed to.

For these reasons, PCI asks the committee to pass SB 2853 SD2.

March 16, 2016

The Honorable Angus L.K. McKelvey, Chair  
The Honorable Justin H. Woodson, Vice Chair  
House Committee on Consumer Protection and Commerce

Re: SB 2853, SD2 – Relating to Insurance

Dear Chair McKelvey, Vice Chair Woodson, and Committee Members:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2853, SD2, which would adopt the National Association of Insurance Commissioners' (NAIC) Risk Management and Own Risk Solvency Act (ORSA). In addition, the Bill provides for a corporate governance structure for Risk Retention Groups. HMSA supports the intent of this Bill.

The recent global financial crisis severely impacted the world financial system, including insurers. Regulators were forced to pay closer attention to the risks created by activities going on outside of those entities, as well as the reputational and contagion issues that could exist. State insurance regulators needed to be able to assess the financial condition of an insurer and its holding company. Last year, the NAIC adopted the ORSA model Act that would require insurance companies to issue their own assessment of their current and future risk through an internal risk self-assessment process, and it will allow regulators to form an enhanced view of an insurer's ability to withstand financial stress.

Insurers would be required to regularly perform an ORSA and file a confidential ORSA Summary Report of the assessment with the Insurance Commissioner. Under ORSA, the issuer assesses the adequacy of its risk management and current and prospective solvency positions under normal and severe stress scenarios. Insurers analyze all reasonably foreseeable and relevant material risks (i.e., underwriting, credit, market, operational, liquidity risks, etc.) that could have an impact on an insurer's ability to meet its policyholder obligations.

The solvency of our members' investment in their healthcare is as critical as is our members' safety and wellbeing. We believe the ORSA model Act will help to ensure our members' investment is secured.

Thank you for allowing us to testify on SB 2853, SD2.

Sincerely,



Jennifer Diesman  
Vice President, Government Relations