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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 5, 2025
10:00 a.m.
State Capitol, Conference Room 229 and via videoconference

On the following measure:
S.B. 802, RELATING TO INSURANCE

Chair Keohokalole and Members of the Committee:

My name is Jerry Bump, and I am the Acting Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department appreciates the intent of this bill and offers the following comments.

The purpose of this bill is to require insurers to provide advance written notice to policyholders and the Insurance Commissioner, with reasonable explanations and primary factors, of any policy cancellation, non-renewal, or proposed premium increase, if, upon renewal, premiums are scheduled to increase more than ten per cent; require insurers that provide property insurance to file rate schedules and underlying criteria with the Insurance Commissioner; require the Insurance Commissioner to conduct periodic reviews of insurance rates and submit annual reports to the Legislature; require the Insurance Commissioner to establish a Public Reporting and Dispute Resolution Program to handle complaints and appeals regarding premium increases; and require

insurers to provide premium discounts or credits to policyholders that implement disaster risk mitigation measures.

While we appreciate the intent of the bill, the Department offers the following comments regarding Section 1:

Page 1:

1. Lines 6 to 7: This section applies to “any insurer offering property insurance in the State.” We note that property insurance, as defined by section 431:1-206, Hawaii Revised Statutes (HRS), is broad, encompassing, in relevant part, “insurance against loss of or damage to real or personal property of every kind and any interest therein . . .”. We respectfully propose that language be added to clarify the scope of its applicability to residential property products and commercial condominium master property products.
2. Lines 8 to 16: Subsection (b) requires insurers to provide policyholders with written notice upon cancellation, non-renewal, or, if upon renewal, in situations when a premium will increase by ten percent or more. HRS § 10-226.5 currently addresses notification procedures for cancellations and non-renewals. To integrate the proposal into existing statute, we respectfully propose to amend HRS § 431:10-226.5 by adding language which addresses providing written notice for renewals.

“In the case of cancellation of a policy, the insurer shall give written notice to the insured not fewer than ten days prior to the effective date of cancellation. For nonrenewal of a policy, the insurer shall give written notice to the insured not fewer than thirty days prior to the effective date of nonrenewal. If, upon renewal, a policyholder's premium will increase by ten per cent or more, the insurer shall give written notice to the insured not fewer than thirty days prior to the effective date of renewal. If under Title 24 or a policy issued to an insured, a longer time period is required for a notice of cancellation or nonrenewal for the policy, the longer period shall

be applicable. Cancellation or nonrenewal shall not be deemed valid unless evidence of mailing is provided.”

3. Lines 16 to 17 to page 2, lines 1 to 13: In their written notice, insurers will be required to provide a detailed explanation which underlies their decision. We note that, generally, insurers already provide policyholders with renewal or non-renewal notices that include plan changes and whether or not claims have affected the premium charged. If the policy is cancelled, a reason for the cancellation is always provided. And while a breakdown of premium charges is reasonable, the level of detail provided by insurers to policyholders should be determined by and specific to the particular policy issued.

Page 3:

1. Lines 5 to 12: Insurers will be required to file a copy of their written notice and supporting documents with the Insurance Commissioner. HRS § 431:14-103.3 already gives the Insurance Commissioner the authority to mandate insurers submit new rate filings for review. HRS § 431:14-104 also gives the Insurance Commissioner authority to approve specific risks in excess of what was previously approved. Additionally, subsection (e) requires the Insurance Commissioner to make available to the public a listing of all notices received. We note that HRS § 431:14-110.8 already mandates that, upon the Insurance Commissioner’s request, homeowners’ insurers provide premium information within thirty (30) days of said request. Additionally, the Insurance Commissioner is required to publish annually, a list of all homeowners insurers with representative annual premiums for homeowners insurance.
2. Lines 13 to 17: This new section requires insurers to file annually a copy of their rate schedules and underwriting criteria. We note that HRS § 14-104 already requires insurers to file their rates and obtain the Insurance Commissioner’s approval when there are updates.

3. Lines 18 to 21: the Insurance Commissioner will be required to conduct periodic reviews for compliance with state laws. We note that the Insurance Commissioner already has the authority to request additional review for cause under HRS § 431:14-103.3. Additionally, unfair methods of competition and unfair deceptive acts are subject to the Insurance Commissioner's jurisdiction under article 13 of HRS Chapter 431.

Page 4:

1. Lines 1 to 11: We note that insurers who write condominium master policies are largely from the surplus lines market which is one that the admitted carriers are largely not participants. We also note that average increases, whether shown as a percentage or dollar amount, can be the product of many complex variables, so representing them as averages may oversimplify or distort the context. We also note that the Insurance Commissioner already provides an annual report to the Legislature pursuant to HRS § 431:2-211.
2. Lines 18 to 21 to page 5, lines 1 to 18: We note that the Insurance Division currently provides a public portal through which consumers may file a complaint. Under HRS §§ 431:1-201, 431:2-201(b), and 431:2-203, the Insurance Commissioner has authority to conduct investigations, exams and enforce the Insurance Code. Additionally, the Insurance Division has a Compliance and Enforcement branch which conducts these investigations and responds to consumer inquiries and an Exam Branch to monitor and ensure the solvency of admitted carriers.

Page 5:

1. Lines 19 to 21: We note that insurers already take into consideration certain mitigative efforts and provide discounts. Mandatory credits often raise the rate level for product, which affects all policyholders, in order to offset the credit that benefits a few. Mandatory credits further require that the product is adequately priced to begin with.

Thank you for the opportunity to testify.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Wednesday, February 5, 2025
10:00 a.m.

SB 802

Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection, my name is Alison Ueoka, President for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit association of property and casualty insurance companies licensed to do business in Hawaii. Members companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this bill. The first part of this bill, entitled "Property insurance; notice of premium increase; policy renewal; notice requirements," requires insurers to provide causes of any cancellation, refusal to renew, or premium increase of 10% percent or more within a time certain for any policy of property insurance, both residential and commercial. It also requires an explanation of primary factors contributing to any premium increase, non-renewal or cancellation, and an allocation of each category to the premium increase. Finally, the bill requires the insurer to respond to policyholder inquiries on premium increases or other information by a time certain.

Most if not all Hawaii-licensed insurers of residential property insurance policies include reasons for non-renewal in communications with their insureds. Most if not all residential property insurers also include reasons for rate changes in renewal offers sent to their insureds. However, this bill requires insurers to allocate cost changes in ways that may not be possible at an individual risk level.

For example, subsection (b)(5) is especially challenging to allocate on an individual risk basis. Loss reserves are established both by claim and in bulk as required by the National

Association of Insurance Commissioners (NAIC). Further, all of subsection (b)(5) other than items (1) and (2) should not apply in a situation where a policy is being non-renewed. Mandating onerous requirements only pushes insurers out of the market at a time where the property insurance is hardening.

Additionally, this bill does not exclude non-renewals and cancellations which occur due to non-payment of premium. Such actions are within the insureds' control yet insurers would, apparently, be mandated to send notices, presumably after the non-renewal or cancellation occurred.

It is important to note that the vast majority of property insurance policies purchased in Hawaii are sold by insurance agents who place policies with insurers. Agents are in direct contact with their policyholders. Communication is and should be ongoing between insureds and their agents.

The second part of the bill, entitled "Property insurance; annual filings; review of insurance proceeds; reports," is unnecessary. Section 431:14-104 already requires insurers to file with the commissioner "every manual of classifications, rules, and rates, every rating plan, every other rating rule, and every modification of any of the foregoing that is proposes to use." Mandating this filing annually under subsection (a) of this portion of the bill, even there is no modification, provides no benefit to the consumer. Subsection (b) of the bill also is unnecessary because the Commissioner is already charged with this review and oversight under article 14 of chapter 431.

The part of the bill entitled "Property insurance; disaster risk mitigation credits" should not be statutorily mandated, but should be left to the discretion of individual insurers, with approval by the Commission.

Overall, we believe if this bill is passed, it will further contribute to an even more constricted marketplace for property insurance. It absolutely will not help. We ask that this bill be held. Thank you for the opportunity to testify.

DATE: February 3, 2025

TO: Senator Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection

FROM: Matt Tsujimura

RE: **S.B. 802 – Relating to Insurance**
Hearing Date: Wednesday, February 5, 2025, at 10:00AM
Conference Room: 229

Dear Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection:

I am Matt Tsujimura, the retained lobbyist for State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers testimony **in opposition** to S.B. 802 – Relating to Insurance.

S.B. 802 would require insurers to provide notices to policyholders regarding decisions to cancel, non-renew, or increase policy premiums. State Farm recognizes that some consumers may have questions about their premiums and would like to better understand what they can do to control the amount they pay. Today, insurers respond to consumer questions and complaints regarding changes to their premiums. State Farm is concerned that S.B. 802 will create significant cost and operational challenges for insurers, while offering little to no benefit to consumers. Requiring these additional forms, and processes may ultimately lead to greater customer confusion.

Additionally, some of the issues in S.B. 802 are already addressed in current Hawaii law; S.B. 802 is duplicative and may cause confusion on which standards apply. Insurance is a highly regulated industry. HRS 431:10C-112 and 431:10-226.5 set forth requirements regarding notice of cancellation and non-renewal. The Insurance Division has the authority to approve insurers rates (HRS 431:10C-201, et seq. and 431:14-101, et seq) and collect data from insurers (HRS 431:2D-101, et seq). The Insurance Division also has the authority to investigate insurers regarding compliance with Hawaii Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance at HRS 431:13-101, et seq.

Finally, competition is a key element of a stable insurance market. As noted above, insurers are required to file their rates and forms with the Insurance Division. These rates and forms are approved by the Commissioner. The proposed appeals process seems to overlook the rate approval process and could result in insurers being forced to take on a risk outside of a company's risk tolerance. Insurers must be permitted to make underwriting decisions and price risk according to their risk tolerance and expected or probable frequency and severity of loss.

Given the challenges facing the insurance market in Hawaii, the changes proposed in S.B. 802 would likely have a negative impact overall to insurance availability and affordability.

For these reasons, we respectfully ask the committee to ***hold S.B. 802.***

Thank you for the opportunity to submit this testimony.

Hawai'i State Legislature
Senate Committee on Commerce and Consumer Protection

February 3, 2025

Filed via electronic testimony submission system

LATE

RE: SB 802 - NAMIC's testimony in opposition

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 5, 2025, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

The National Association of Mutual Insurance Companies consists of nearly 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America as well as many of the country's largest national insurers. NAMIC member companies write approximately \$391 billion in annual premiums and represent 68 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance.

As NAMIC has repeatedly stated in all of our testimony to this committee over the past two weeks – expansion of insurance coverages, protections, and consumer disclosures require consumers to pay more for their insurance, because state law dictates that rates charged to consumers may not be “excessive or *inadequate*” for the insurance product. Common experience dictates that one cannot add something to a product, whether it be a new coverage or a detailed disclosure, without it adding a cost to the creation of the product and the ultimate cost of the product to the consumer. Thus, the threshold public policy question for analysis is – Are all the proposed new mandates truly necessary and beneficial to the consumer, and if so, are they worthy of the likely cost-driver impact they will have on insurance coverage at a time when consumers are struggling to deal with inflationary forces in all areas of their life? Just because one sincerely wants to do a good thing for the consumer ... does not mean that one is *actually* doing a good thing for the consumer.

NAMIC respectfully offers the following general list of comments and concerns with the proposed legislation:

- The provisions in the bill, especially the ones that pertain to overly-detailed consumer disclosures on complex insurance rating variable considerations, are likely to confuse consumers and lead them to needlessly spend their time pursuing unnecessary information from their insurance agent, insurance company and Division of Insurance.
- A number of portions of the bill may conflict with other parts of Hawaii Insurance Law (e.g., required notices for cancellations and non-renewals). Legal ambiguity is not beneficial to insurance consumers.

- The consumer disclosure requirements provision would arguably require insurers to disclose information that the consumer already knows and reasonably expects to increase their premium. For example, a customer-initiated change (e.g., buying a new car, adding a driver, etc.) and/or other clear risk increasing incidents reasonably known to the customer (e.g., a recent auto accident or moving violation) which would create a reasonable expectation of a premium increase.
- SB 802 is loaded with provisions that will create significant cost and operational challenges for insurers, while offering little or no value to the consumer.
- Competition is a key element of a stable insurance market. The proposed consumer notice seems to include information which may be confidential and proprietary, including business trade secret. Requiring insurers to disclose this type of information in a public forum would have a chilling effect upon competition and may lead some carriers to not want to do business in the state.
- The proposed legislation is unnecessary, because insurers are already required to file their rates and forms with the Hawaii Insurance Division (HID) pursuant to the prior approval of rates state law, so the HID already has access to the type of information requested in Part 2 of the bill for reporting to the legislature and the HID has the regulatory authority to require insurers to thoroughly explain rate changes as part of their request for a rate increase in their rate filing. Further, the HID has additional regulatory tools to obtain information from insurers (e.g., data calls to the insurance marketplace, and targeted rate and market conduct examinations, etc.).
- Moreover, the HID currently has a consumer complaint process in place and insurers have their own appeal processes so there is an established and tested processes for a consumer to challenge an insurer's decision, and ultimately the consumer has the final say because they can give their business to another insurer. The consumer has "the power of their check book". Forcing insurers to participate in a formal appeal process and giving the Commissioner the ability to override an insurer's business decision that complies with the state's laws is bad public policy for a number of reasons: a) it is an unnecessary new administrative process that will create new costs and staffing challenges for the HID; 2) it will create new costs and burdens for insurers that will increase the cost of the insurance products sold to consumers; 3) it could arguably be an overstepping into the exclusive adjudicative authority of the court system; and 4) it makes the insurance process needlessly contentious and adversarial.
- As for the provision on mitigation discounts/credits, the proposed mandatory discounts/credits and the specific eligibility requirements should not be vague or arbitrary in design. Insurance discounts/credits need to be specifically supported by actuarial science to ensure the stability of the insurance market and so that insurers are complying with their legal duty to make sure that their rates are actuarially supported.
- The proposed consumer disclosure would require insurers to provide information that is far beyond the needs and expertise of the average consumer. Providing consumers with transparency for the mere sake of transparency is not meaningful consumer protection. The bill specifically states that the insurer shall provide information about "market conditions." Most consumers are not economists or experts on evaluating the impact of market conditions on insurance rates. This is an issue for highly trained subject matter experts.
- Additionally, the proposed consumer notice requires insurers to provide:

A clear and concise breakdown of the premium calculation, which shall identify any administrative costs, loss reserves, reinsurance costs, and claims related factors specific to the insured property; provided that the notice shall include the extent to which each of these categories contributes to the premium increase. [Emphasis added]

This granular level of disclosure is unnecessary and confusing to even people with experience in the insurance business. The average consumer will not benefit from information regarding administrative costs, loss reserves and reinsurance costs, or a complex breakdown of the formula used to arrive at the particular consumer's premium increase.

For the aforementioned reasons, NAMIC respectfully requests that you HOLD SB 802. Let's not burden consumers with complex insurance information that will confuse them not assist them in making informed consumer choices as to how best to address their insurance needs.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at 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".

Christian John Rataj, Esq.
NAMIC Senior Regional Vice President
State Government Affairs, Western Region

To: The Honorable Senator Jarrett Keohokalole, Chair
 The Honorable Senator Carol Fukunaga, Vice Chair
 Senate Committee on Commerce and Consumer Protection

From: Mark Sektnan, Vice President

Re: **SB 802 – Relating to Insurance**
 APCIA Position: Oppose

Date: Wednesday, February 5, 2025
 10:00 a.m., Room 229

Dear Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

The American Property Casualty Insurance Association is **opposed to SB 802** which would impose burdensome reporting requirements on insurers to report detailed information about premium increases.

The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

SB 802 would mandate insurance companies to provide detailed information on premium increases over an unspecified amount regardless of whether the policyholder asked for the information. The primary factors contributing to any premium increase, which shall include the following categories: (1) Specific risk factors; (2) Claims history; (3) Market conditions; (4) A summary of any changes to policy terms, conditions, or coverage; and (5) A clear and concise breakdown of the premium calculation, which shall identify any administrative costs, loss reserves, reinsurance costs, and claims related factors specific to the insured property; provided that the notice shall include the extent to which each of these categories contributes to the premium increase.

Further, the listing of categories provided in the text of SB 802 does not include all the reasons for premium increases, as external factors not related to the condition of the property may produce premium increases. These include, but are not limited to, general inflationary pressures within the economy that may increase prices for repairing or replacing property, or changes in the overall risk environment. Accordingly, the required use of the provided list may produce confusion and frustration for policyholders who erroneously believe that premium increases must

be based on the factors provided with the list. Policyholders already have the ability to inquire about the reasons for premium increases.

Additionally, the bill requires all insurance companies to provide, on an annual basis, a copy of the insurer's rate schedules and underwriting criteria with the commissioner annually. Hawaii is a "prior approval" state. Insurers cannot charge any premium that has not been approved by the Commissioner. Insurers must justify any premium, including any increase in premium so the Department of Insurance already has this information. The benefits of undertaking the burdensome data collection and reporting requirements under this provision are unclear.

The bill also requires the commissioner to conduct periodic reviews of insurance rates to ensure compliance with state laws, focusing on rate-setting practices, prevention of price-gouging, and unfair discrimination. This requirement is unnecessary because the Division of Insurance already reviews insurance rate filing to ensure the rates are in compliance with appropriate laws.

For these reasons, APCIA asks the committee to **hold SB 802** in committee.

SB-802

Submitted on: 2/2/2025 12:12:36 PM

Testimony for CPN on 2/5/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am an owner occupant of a high rise condo in Downtown Honolulu. I have an HO6 policy and my condo has a master policy. As you are aware, insurance prices jumped dramatically last year, in both categories, and some condo associations as well as HO6 policy holders had their policies canceled, often with little notice. Or, a dramatic increase in their deductibles.

I wish to thank Senator Fukunaga and the others who introduced this measure. It is well needed and appreciated.

There is one change I would like to see. It is important that the insurers give sixty days notice to policy holders if there are changes in premium or if the policy is going to be canceled. Often we get little notice and have to scramble to get coverage. In addition, deductibles are raised with no discussion, You need to look into that matter too.

Mahalo nui for your consideration.

SB-802

Submitted on: 2/2/2025 1:29:17 PM

Testimony for CPN on 2/5/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Miri Yi	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Chairs and Members,

Mahalo for the opportunity to provide testimony **in support** of this bill.

Mahalo Nui Loa,

Miri YI

SB-802

Submitted on: 2/3/2025 2:25:45 AM

Testimony for CPN on 2/5/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Greg Misakian	Individual	Support	Remotely Via Zoom

Comments:

I support SB802.

Gregory Misakian