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**Testimony of the Department of Commerce and Consumer Affairs  
Before the  
House Committee on the Judiciary & Hawaiian Affairs  
Tuesday, March 24, 2026  
2:00 p.m.  
State Capitol, Conference Room 325 and via Videoconference**

**On the following measure:  
S.B. 2948, S.D. 2, H.D. 1, RELATING TO INSURANCE FRAUD**

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

My name is Scott K. Saiki, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to prohibit certain solicitation and inducement practices relating to insurance claims. Broadens the scope of the offense of insurance fraud and the acts that constitute insurance fraud. Establishes disaster-related insurance fraud offenses. Clarifies the penalties for the offense of insurance fraud and the capabilities and operations of the Insurance Fraud Investigations Branch, including the annual report to the Legislature and the use of fraud analytics. Reiterates protections for insurance fraud whistleblowers; and appropriate funds.

The Department appreciates the Legislature's continued attention to the serious impacts of insurance fraud on Hawaii consumers. Fraudulent claims increase costs

across the insurance system and ultimately contribute to higher premiums for honest policyholders.

Importantly, Hawaii already maintains a statewide insurance fraud enforcement program through the Insurance Fraud Investigations Branch (Fraud Branch), which conducts investigations and prosecutions involving all lines of insurance except workers' compensation. The Fraud Branch reviews referrals from insurers, agencies, and the public and opens investigations where criminal conduct is suspected.

During FY 2024–2025, the Fraud Branch:

- Received 711 fraud referrals statewide
- Obtained criminal indictments against 33 individuals
- Collected restitution, fines, and fees benefiting the State and crime victim programs

The Fraud Branch also works proactively to prevent fraud through public outreach, informational presentations, and participation in national fraud prevention partnerships.

The Department appreciates the intent of this bill and the revisions proposed to increase the means to fight against insurance fraud. Nevertheless, the Department has concerns regarding the revision in Hawaii Revised Statutes (HRS) §431:2-402(c) on page 11 and its practical implementation. The deployment of fraud analytics and case flagging systems for the purposes of identifying and detecting fraud, would involve an immense undertaking that requires the insurance industry's cooperation and unfettered access for the Department for every insurance claim. At this point, the expertise and expense of "data mining" these claims to obtain a comprehensive analysis, as contemplated by this provision, would be extremely high. Likewise, an unprecedented level of coordination with insurers, policyholders, and regulatory authorities, would be required to implement this provision.

In addition, the Department seeks clarification regarding section (d) in HRS §431:2-403 (d) on page 19. Under this provision, "a business entity shall be liable for

insurance fraud committed by an officer, employee, agent, or contractor acting within the scope of the entity's business or for the benefit of the entity". Without clarification, it appears that this could be interpreted to mean that a business entity can be found wholly liable while no individual liability attaches to the individual who committed the insurance fraud. To minimize any potential interpretive confusion, the Department respectfully requests that the following revision be made to section (d) on line 1, page 19:

(d) A business entity shall be ***additionally*** liable for insurance fraud...

Thank you for the opportunity to testify on this bill. The Department looks forward to continuing its work with the Legislature to strengthen Hawaii's insurance fraud prevention framework while ensuring statutory clarity, effective implementation, and appropriate coordination among agencies.

March 23, 2026

House Committee on Judiciary & Hawaiian Affairs  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

**Re: S.B.2948 RELATING TO INSURANCE FRAUD – SUPPORT**

Dear Chairman Tarnas and Committee Members:

The National Insurance Crime Bureau (NICB) is a national, century-old, not-for-profit organization supported by more than 1,200 property and casualty insurers, including many who write business in Hawaii. Working hand-in-hand with our members, strategic partners, and Hawaii state and local law enforcement, we help to detect, prevent, and deter insurance crimes, which cause billions in economic harm to consumers every year.

Contractor fraud continues to be a widespread problem across the country, including in Hawaii. Predatory contractors often use the aftermath of major storms or catastrophes to prey upon already vulnerable consumers by inflating invoices or deceiving consumers into agreeing to unnecessary repairs. One tool these bad actors use to exploit consumers is an assignment of benefits, which allows contractors to take control of a consumer's insurance benefits and seek direct payment from the consumer's insurance provider. Dishonest contractors often utilize high pressure tactics and deceit to pressure consumers to agree to signing over their insurance benefits, which then creates the incentive for the contractor to drive up repair costs even higher. Unfortunately, NICB is also seeing an increased number of questionable insurance claims referrals related to unscrupulous contractors working in concert with public adjusters. Accordingly, NICB supports commonsense reforms that will protect against the tactics and abuses that facilitate fraud.

NICB appreciates the work of the Hawaii Insurance Division, and our continued partnership with the Insurance Fraud Investigation Branch to protect Hawaii citizens from unscrupulous actors, especially during a disaster. Therefore, we are pleased to see the proposed reforms within SB 2948 that would help prevent assignment of benefits abuse, rein in tactics that have been used by unscrupulous public adjusters and strengthen the authorities of fraud investigators in Hawaii.

**Accordingly, NICB supports the strong anti-fraud measures in SB 2948.**

We encourage you to utilize NICB as a resource and partner in the fight against insurance crime. If you have any questions or need additional information, please contact me at [mariansmith@nicb.org](mailto:mariansmith@nicb.org) or 847-927-1468.

Sincerely,

*Marian Smith*

Marian Smith  
Director, Office of Strategy, Policy, and Government Affairs  
National Insurance Crime Bureau  
[mariansmith@nicb.org](mailto:mariansmith@nicb.org)

WRITTEN TESTIMONY

Hawaii House Committee on Judiciary & Hawaiian Affairs  
 In Opposition to SB 2948 (As Drafted)

Chair, Vice Chair, and Members of the Committee:

Thank you for the opportunity to submit testimony regarding SB 2948.

The Alliance for Responsible Consumer Legal Funding (ARC) is the leading trade association representing companies that provide consumer legal funding across the United States. ARC is dedicated to promoting transparency, ethical practices, and responsible standards within the industry while ensuring that injured consumers have access to critical financial support as they navigate the legal system.

As the President of the Trade Association, I respectfully write to express concerns with the bill’s definition of “litigation financing arrangement,” which is overly broad and unintentionally harms Hawaii consumers by capturing consumer legal funding, a fundamentally different and consumer-focused financial tool.

**I. The Core Issue: Overly Broad Definition**

SB 2948 defines a “litigation financing arrangement” as:

*“Any agreement under which a person or entity that is not a party to an insurance claim or legal action provides funding or financial assistance in exchange for a contingent interest in the proceeds of a claim or settlement.”*

While this language appears neutral, it is overinclusive and unintentionally sweeps in consumer legal funding, conflating it with commercial litigation financing.

**II. Critical Distinction Being Overlooked the Core Problem**

The bill **conflates two distinct products**:

<b>Consumer Legal Funding</b>	<b>Commercial Litigation Financing</b>
• Used by <b>individual consumers</b>	• Used by <b>corporations / law firms</b>
• Covers <b>basic living expenses</b>	• Covers <b>legal and investment costs</b>
• Small-dollar (\$3K-\$5K)	• Large-scale (\$3M+)
• Helps avoid <b>premature settlements</b>	• Structured as <b>investment vehicles</b>
• Consumer protection tool	• Commercial profit strategy

### III. Why This Matters for Hawaii Consumers

Consumer legal funding exists to help injured individuals survive financially while their case is pending.

These funds are commonly used to:

- Pay rent and avoid eviction
- Keep utilities on
- Cover necessary medical expenses
- Support families during periods of financial hardship

Without access to this option, many Hawaii residents face a harsh reality: settle early, settle low, or face financial collapse.

### IV. Unintended Consequences of SB 2948

The bill will:

- Misclassify consumers as commercial actors
- Undermine access to a critical financial safety net
- Create stigma by placing consumer funding within an insurance fraud framework
- Introduce legal uncertainty for consumers seeking lawful financial support

### V. A Simple, Targeted Fix

“Litigation financing arrangement” means any agreement under which a person or entity provides funding in exchange for a contingent interest in a claim or settlement. This term does not include funds intended for use by a party for personal or familial expenses.

"Litigation financing arrangement" means any agreement under which a person or entity that is not a party to an insurance claim or legal action provides funding or financial assistance in exchange for a contingent interest in the proceeds of a claim or settlement. **It does not include funds intended for use by a party for personal or familial expenses.**

SB 2948, as currently drafted, risks eliminating access to consumer legal funding. A simple clarification will preserve access, protect vulnerable consumers, and maintain legislative intent.

### ***Consumer Legal Funding: Funding Lives, Not Litigation***

Respectfully submitted,

Eric Schuller

President

[Eschuller@arclegalfunding.org](mailto:Eschuller@arclegalfunding.org)



**TO:** House Committee on Judiciary & Hawaiian Affairs

**CHAIR:** Rep. David A. Tarnas

**VICE CHAIR:** Rep. Mahina Poepoe

**HEARING DATE:** Tuesday, March 24, 2026

**TIME:** 2:00 PM

**RE: COMMENTS ON SB2948 SD2 HD1** - Relating to Litigation Financing

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

My name is **Kekoa McClellan**, and I serve as the Hawaii Spokesperson for the **Alliance for Responsible Consumer Legal Funding (ARC)**. ARC is the leading national trade association dedicated to promoting transparency, ethical practices, and responsible standards within the industry.

We are submitting these **comments & suggested amendments** to ensure that SB 2948 achieves its legislative intent without inadvertently harming Hawaii's working families. As currently drafted, the bill's definition of "litigation financing arrangement" is overly broad. It unintentionally captures **consumer legal funding**—a vital, consumer-focused financial tool that is fundamentally different from the complex commercial litigation investments this measure appears to target.

#### **The Distinction for Hawaii's Families**

Consumer legal funding provides small-dollar assistance (typically \$3,000 to \$5,000) directly to individuals. For our **kama'āina families**, these funds are a crucial bridge used to meet the costs of **basic necessities**—such as rent, utilities, and groceries—while they navigate the legal system after an injury. It is vital to underscore that the products provided by ARC members are **non-recourse**. If a consumer does not prevail in their claim, they owe nothing.

This is not a traditional loan; it is a safety net that prevents families from facing financial collapse or being forced into premature, undervalued settlements just to stay afloat.

### **Suggested Amendments**

To ensure that Hawaii residents maintain access to this critical financial support, we respectfully request that the Committee refine the definition of "litigation financing arrangement" to exclude personal and familial support.

### **We suggest the following clarifying language:**

*“Litigation financing arrangement’ means any agreement under which a person or entity that is not a party to an insurance claim or legal action provides funding or financial assistance in exchange for a contingent interest in the proceeds of a claim or settlement. **The term does not include funds intended for use by a party for personal or familial expenses.**”*

By adopting this targeted amendment, the Committee can maintain the bill’s focus on commercial litigation while protecting a necessary lifeline for vulnerable Hawaii families.

Mahalo for your time and for the opportunity to provide these comments.

Me ka ha’aha’a,



**Kekoa McClellan**

Hawaii Spokesperson

Alliance for Responsible Consumer Legal Funding (ARC)

&

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**Alison H. Ueoka**  
President

## TESTIMONY OF ALISON UEOKA

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COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS  
Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

Tuesday, March 24, 2026  
2:00 p.m.

### **SB 2948, SD2, HD1**

Chair Tarnas, Vice Chair Poepoe, and members of the Committee on Judiciary & Hawaiian Affairs, my name is Alison Ueoka, President of the Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **supports** the intent of this bill. Fraud impacts society as a whole and efforts to better address fraud prevention, detection, and prosecution will benefit all whom property and casualty insurance touches in Hawaii.

We believe this bill enhances our current statute and would allow the Insurance Division to continue its efforts to curtail insurance fraud in Hawaii.

Thank you for the opportunity to testify.

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE (HAJ)  
IN OPPOSITION OF SB 2948**

Date: Tuesday March 24, 2026

Time: 2:00 P.M.

Aloha Chair Tarnas, Vice Chair Poepoe, Members of the Committee:

My name is Evan Oue and thank you for allowing me to submit testimony on behalf of the Hawaii Association for Justice (HAJ) in **OPPOSITION** to **SB 2948 SD2 HD1 - RELATING TO INSURANCE FRAUD**

HAJ supports the Legislature’s goal of deterring and addressing insurance fraud and protecting consumers from abusive practices. However, we must respectfully oppose this measure unless it is amended to address serious unintended consequences that would undermine access to justice in Hawai‘i.

Contingency fee arrangements are a cornerstone of the civil justice system and play a critical role in ensuring that individuals, often victims of injury, disaster, or economic harm can pursue valid legal claims without upfront costs. *These agreements are already carefully governed by the Hawai‘i Rules of Professional Conduct, including Rule 1.5(d), which regulates the reasonableness and structure of such fees.* In these cases, attorneys assume substantial financial risk and are compensated only if the case is successful, typically through a percentage of the recovery. Without this system, many Hawai‘i residents would be unable to seek legal redress.

As drafted, SB 2948 raises significant concerns because its definition of a “litigation financing arrangement” is broad enough to include traditional contingency fee agreements. The

bill defines these arrangements as any agreement in which a non-party provides funding in exchange for a contingent interest in the proceeds of a claim or settlement (§ 431:2-401) .

***Unlike other states that have addressed litigation financing, this measure does not expressly exclude contingency fee agreements.*** This omission creates substantial uncertainty and could inadvertently subject routine attorney-client agreements to regulation and liability under the bill.

This concern is compounded by provisions that impose liability for initiating or supporting litigation using “false, inflated, or unverified information,” and for arrangements that “encourage” inflated damages, unnecessary medical treatment, or manufactured injuries . These terms are not defined in the measure, leaving them open to broad and subjective interpretation.

In practice, attorneys have an ethical duty to zealously advocate for their clients and to pursue the full measure of damages supported by the facts and law. The lack of clarity around what constitutes “inflated” damages or what it means to “encourage” such damages risks chilling legitimate advocacy. Attorneys may hesitate to fully develop claims, pursue expert analysis, or advise clients to reject inadequate settlement offers out of concern that such actions could later be characterized as improper.

The bill also appears to misunderstand the nature of contingency representation and litigation financing. Attorneys who work on contingency have no incentive to pursue meritless claims, as they are only compensated if the case is successful. Similarly, claims are often “verified” through the litigation process itself, as evidence is developed through discovery, expert review, and judicial oversight. Imposing liability based on undefined concepts like “unverified” claims at early stages of litigation creates uncertainty and may deter attorneys from

taking on complex but meritorious cases, particularly those involving insurance disputes or disaster-related losses.

HAJ respectfully urges the Committee to amend the measure to avoid these unintended consequences. At a minimum, the bill should:

1. Explicitly exclude contingency fee agreements between attorneys and clients from the definition of “litigation financing arrangement.”
2. Clarify key terms, including “inflated damages,” “unverified information,” and “encourages,” to ensure that the statute targets fraudulent conduct rather than legitimate legal advocacy.
3. Provide a clear safe harbor for attorneys acting in compliance with the Hawai‘i Rules of Professional Conduct would further ensure that ethical representation is not inadvertently penalized.

In closing, while HAJ supports strong and effective measures to combat insurance fraud, S.B. 2948 as currently drafted risks undermining access to justice and discouraging lawful advocacy on behalf of injured individuals. We respectfully request that the Committee amend the bill to preserve the integrity of contingency fee representation while focusing enforcement on truly fraudulent conduct.

Thank you very much for allowing me to testify in **OPPOSITION** of this measure. Please feel free to contact me should you have any questions or desire additional information.