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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 11, 2026
9:30 a.m.
State Capitol, Conference Room 229 and via Videoconference**

**On the following measure:
S.B. 2948, RELATING TO INSURANCE FRAUD**

Chair Keohokalole, Vice Chair Fukunaga, 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' Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to increase the scope of insurance fraud and certain offenses; augment offenses by contractors and insurers during a declared emergency; clarify 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 protection of sensitive information; add protection for insurance fraud whistleblowers; authorize the Insurance Commissioner to establish a centralized database for authorized agencies to track insurance fraud data; 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 but has concerns that some of the amendments are covered by existing statutes and may inadvertently cause some confusion or overlap with existing regulatory obligations. The terms defined in Part II, Section 2 (pages 3 to 4), particularly those involving any fraudulent, coercive, or deceptive conduct are covered by Hawaii Revised Statutes (HRS) §§ 431:2-403 and 431:13-103. The bill also introduces a “centralized insurance fraud database” and data sharing requirements solely limited to insurance fraud matters in Part III, Section 4 (page 6, line 18 to page 8, line 15). This expands the Commissioner’s authority over access to information while simultaneously circumscribing discretion by setting strict confidentiality obligations and narrow purposes for which the information can be used. In the absence of clarifying language, this may be interpreted to override Chapter 92F, therefore we respectfully request the following language to be inserted at the end of the

proposed statute: “Nothing in this section shall be construed to require disclosure of information in violation of Chapter 92F.”

The Department appreciates the authority to deploy fraud analytics or predictive analytics and case-flagging system in paragraph (c) (page 13, lines 9 to 19) but has concerns regarding practical implementation. This would require the insurance industry’s cooperation and unfettered access for the Department to all claims data for comprehensive analysis as contemplated by this provision. Further coordination with insurers, policyholders, and regulatory authorities, may therefore be required to implement this provision.

This bill also proposes to increase the monetary thresholds used to classify insurance fraud, including Class C felonies and misdemeanors (Page 20, lines 5 to 11). The new values are not aligned with Hawaii’s criminal code and while we recognize that insurance fraud is a standalone offense, this could lead to inconsistent or disproportionate sentencing compared to other economic crimes of similar severity. We therefore request that the threshold amounts remain consistent with the penal code.

Finally, because the Insurance Division does not oversee Hawaii-licensed contractors under Chapter 444, expanding the Commissioner’s role in paragraph (f) on page 47, may blur existing regulatory responsibilities. Instead, we recommend addressing insurance-related matters through coordination with the appropriate authorities.

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.

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

February 9, 2026

Filed via electronic testimony submission system

RE: SB 2948, Insurance Fraud - NAMIC's Testimony

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 11, 2026, 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 (NAMIC) is the foremost trade association representing the property/casualty insurance industry. Serving more than 1,300 member companies - including local and regional insurers as well as some of the nation's largest carriers - NAMIC members collectively write \$467 billion in annual premiums, representing 61% of the homeowners and 53% of the automobile insurance markets. For more than 130 years, NAMIC has been the leading voice advancing public policy solutions and regulatory frameworks that promote a strong, competitive market and protect our members and their policyholders.

NAMIC completely agrees with the bill authors' findings in regard to the adverse societal impact and insurance affordability implications of insurance fraud committed by policyholders, claimants, third-party vendors, litigation financing lenders, and public adjusters. We fully support the provisions in the bill designed to better address fraud prevention, detection, investigation, prosecution, and development of enforcement strategies against these criminal activities.

NAMIC has only a few areas of concern with the proposed legislation:

1) §431:2- Confidentiality; centralized insurance fraud database; interagency data sharing –

This provision authorizes the commissioner to share insurance fraud database information with the National Council of Insurance Legislators (NCOIL). NAMIC is concerned with this provision, because NCOIL generally doesn't collect or access insurer data. NCOIL is a national legislative organization that includes members from all 50 states. While NCOIL works to shape model insurance legislation, they do not serve an insurance regulatory function or direct engagement in fraud prevention, investigation, or prosecution. We are concerned NCOIL may not have the resources to reasonably safeguard insurer data, and confidential and proprietary information. As such, we respectfully request removal of NCOIL from the list of organizations that may access the fraud database.

- 2) "**§431:2-403 Insurance fraud. (a) A person commits the offense of insurance fraud if the person.** The provision of concern states:

(6) Knowingly concealing, suppressing, or omitting any material fact that affects an insurer's evaluation, adjustment, settlement, or payment of a claim;

NAMIC is concerned that this language needs to be revised to make it clear that an insurance professional has not *knowingly omitted* material facts that affect the insurer's evaluation, adjustment, settlement, or payment of a claim, if the insurance professional *reasonably relied* upon data, information or any statement of facts made by a third-party as part of the insurance transaction. This is important because underwriters and claim's adjusters reasonably rely upon representations and information provided to the insurer by third-parties, including a policyholder or claimant, which may influence the insurance professional's determination that a material fact should be, pursuant to the terms of the insuring agreement, insurance code or state law, omitted from the insurance transaction.

- 3) **Section 12 Section 431:13-103, Hawaii Revised Statutes: a) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:**

(15) Failure to comply with timelines during a declared emergency. Failure of any insurer to ensure timely and accurate handling of claims in compliance with reasonable inspection and documentation timelines established by the commissioner during a state of emergency or local emergency duly declared by the governor or a mayor pursuant to chapter 127A.

NAMIC is opposed to the inclusion of this provision in SB 2948, because it is unnecessary and overly-broad. Insurers are already compelled to handle claims pursuant to the terms of their policy and Hawai'i law. The broad nature of the provision would give the commissioner the authority to change the rules of the road which may result in additional customer confusion and frustration. It would also subject insurers to violations for a single, isolated mistake even if there was no harm to the consumer and/or the reason for missing the timeline was outside of the insurer's control.

We are also concerned about the phrase "accurate handling of claims", because claims adjusting inherently requires subjective analysis of a multitude of facts, contractual provisions, insurance code pronouncements and case law holdings. This section of the bill should be amended to expressly require intentional conduct by the insurers and a demonstrated "pattern and practice" of violations.

For the aforementioned reasons, **NAMIC respectfully supports the bill, if amended to address the concerns stated in this written testimony.**

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". The signature is fluid and cursive, with the first name "Christian" and last name "Rataj" being the most prominent parts.

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



LATE

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

From: Mark Sektnan, Vice President

Re: **SB 2948 – Relating to Insurance Fraud**
APCIA Position: SUPPORT

Date: Wednesday, February 11, 2026
9:30 a.m, Room 229

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

The American Property Casualty Insurance Association (APCIA) is in **support** of **SB 2948** which proposes important updates to Hawaii’s insurance fraud statutes and strengthens the state’s ability to prevent, detect, and prosecute fraudulent activity. 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 2948 increases the scope of insurance fraud and related offenses, including misconduct by contractors and insurers during declared emergencies. It also clarifies existing penalties, enhances the operational capabilities of the Insurance Fraud Investigations Branch, and updates requirements for reporting and protecting sensitive information. These enhancements are critical. Insurance fraud is not a victimless crime, raises costs for families and businesses, distorts insurance markets, and erodes confidence in systems designed to provide protection in times of hardship. SB 2948 acknowledges these challenges and takes practical steps toward addressing them by strengthening enforcement tools and modernizing oversight.

APCIA is particularly supportive of SB 2948’s provisions that add protections for whistleblowers and authorize the Insurance Commissioner to establish a centralized database for authorized agencies to better track fraud patterns. These steps will promote transparency, coordination, and early detection, especially in high-risk periods following natural disasters or emergency declarations. Fraud schemes often take advantage of vulnerable individuals and overwhelmed systems. By adopting this legislation, Hawaii will be better positioned to safeguard consumers, ensure accountability, and prevent bad actors from exploiting crises for personal gain.

For these reasons, APCIA asks the committee to pass this bill.



LATE

February 10, 2026

To: The Honorable Jarrett Keohokalole
Chair, The Hawai'i State Senate Committee on Commerce & Consumer
Protection

&

The Honorable Members of the Hawai'i State Senate Committee on
Commerce & Consumer & Protection

From: Kekoa McClellan on behalf of

COMMENTS to SB2948, Offering Amicable Amendments

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

My name is Kekoa McClellan, and I am testifying today on behalf of the **Alliance for Responsible Consumer Legal Funding (ARC)**. ARC is the nation's largest trade association representing companies that provide Consumer Legal Funding, including several providers operating in Hawaii.

We are submitting **COMMENTS** on SB2948 with a request for a critical amendment to the definition of "Litigation Financing Arrangement."

The Need for Definitional Clarity

While ARC shares the Legislature's objective of addressing insurance fraud and holding accountable those who seek to manipulate our legal system, we believe the current language regarding "litigation financing arrangement" is overly broad. As written, it risks sweeping together several fundamentally different financial products that raise distinct policy considerations.

Specifically, it is important to distinguish between three very different activities:

1. **Commercial Litigation Funding:** Companies that provide funds to cover actual litigation expenses, such as court costs and attorney fees.
2. **Attorney Portfolio Funding:** Where law firms leverage portfolios of cases to obtain capital.
3. **Consumer Legal Funding (ARC's Focus):** Where funds are provided directly to

consumers to cover **basic household needs**—such as rent, utilities, and food—while their legal claims proceed, not for litigation costs.

Protecting Hawaii's Consumers

Consumer Legal Funding is a vital safety net. For a family in Hawaii awaiting a fair settlement, these funds are often the difference between housing stability and eviction. Our concern is that without a clear distinction, these families could be inadvertently caught in a framework intended for fundamentally different actors or activities.

To help clarify these differences, **ARC's President, Eric Schuller**, authored an article in the ***National Law Review*** outlining how these products are commonly distinguished by their purpose, structure, and risk. We encourage the Committee to review this breakdown to ensure the legislation is appropriately targeted:

[Understanding Differences Between Consumer, Commercial, and Attorney Portfolio Litigation](https://natlawreview.com/article/understanding-differences-between-consumer-commercial-attorney-portfolio-litigation)

<https://natlawreview.com/article/understanding-differences-between-consumer-commercial-attorney-portfolio-litigation>

Requested Amendment

ARC supports efforts to target fraudulent conduct. To ensure that consumers who obtain limited financial assistance for daily living expenses are not adversely impacted, we respectfully request the following amendment to the definition of "Litigation Financing Arrangement:

"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.**

By adopting this amendment, the Committee ensures that SB2948 remains focused on its primary goal while protecting the rights of Hawaii's residents to maintain their basic quality of life during a legal struggle.

Mahalo for your leadership on this issue and for the opportunity to provide these comments.

Me ka ha'aha'a,



Kekoa McClellan
Principal
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