H.B. NO. 3100

A BILL FOR AN ACT

RELATING TO ENHANCED PENALTIES FOR INSURANCE VIOLATIONS COMMITTED AGAINST ELDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding to article 2 two new sections to be appropriately designated and to read as follows:

"**§431- Additional administrative penalties for insurance violations committed against elders.** If a person commits a violation under this chapter and the violation is directed toward, targets, or is committed against a person who at the time of the violation is sixty-two years of age or older, the commissioner, in addition to any other administrative penalty, may impose an administrative penalty not to exceed $50,000 for each violation.

§431- Additional civil penalties for insurance violations committed against elders. If a person commits a violation under this chapter and the violation is directed toward, targets, or is committed against a person who at the time of the violation is sixty-two years of age or older, a

court, in addition to any other civil penalty, may impose a civil penalty not to exceed $50,000 for each violation."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2008.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

H .B. NO. 3100

Report Title:
Insurance; Elders; Penalties

Description:
Adds enhanced civil and administrative penalties for insurance violations committed against elders.

HB 3100

JUSTIFICATION SHEET

DEPARTMENT: Department of Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO ENHANCED PENALTIES FOR INSURANCE VIOLATIONS COMMITTED AGAINST ELDERS.

PURPOSE:

(1) To authorize the insurance commissioner to impose, in addition to any other administrative penalty, an enhanced administrative penalty not to exceed $50,000 for each insurance violation committed against a person who is sixty-two years of age or older; and

(2) To authorize the courts of the State of Hawaii to impose, in addition to any other civil penalty, an enhanced civil penalty not to exceed $50,000 for each insurance violation committed against a person who is sixty-two years of age or older.

MEANS: Add two new sections to chapter 431, Hawaii Revised Statutes.

JUSTIFICATION: Our population is rapidly aging. By the year 2030, there will be 70 million people in the United States who are 65 years of age or older, which is more than twice the number in 1990, and which will represent twenty per cent of the population. Of great significance is the fact that those age 85 and over represent the fastest growing segment of the elderly population. With more elders, there are more people to victimize and greater opportunities for financial exploitation, including, for example, fraudulent and deceptive acts in conducting the business of insurance. In this regard, it is generally recognized that elderly persons are particularly appealing targets to con artists because of certain

generalizations about elderly persons, including that they have more money to steal, have more time to attend free luncheons and to listen to sales pitches, are less likely to cut off a pushy salesperson, and are more trusting than the younger generations.

Last year, the Department of Commerce and Consumer Affairs responded by supporting the enactment of three new Hawaii laws, which focus on illegal actions that are directed towards, target, or are committed against the elderly, thus providing increased protections to elders when dealing with mortgage brokers and solicitors, securities dealers and broker-dealers, and financial institutions.

Similarly, insurance violations also can take an elderly person's life savings, means of survival, and sense of well-being. The elderly are deserving of additional protection under the law. Accordingly, the proposed enhanced penalties may be imposed by the insurance commissioner or the courts in addition to any other administrative penalty. This will help to deter exploitation of the elderly with respect to the business of insurance.

Impact on the public: This bill will help to deter exploitation of the elderly with respect to the business of insurance.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-106

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: July 1, 2008.