



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

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

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Friday, April 1, 2016
1:00 p.m.

Agenda #2

TESTIMONY ON SENATE BILL NO. 2854, S.D. 2, H.D. 1 – RELATING TO INSURANCE.

TO THE HONORABLE SYLVIA LUKE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner (“Commissioner”), testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department strongly supports this Administration bill.

The Department believes the various provisions proposed in this bill will update and improve chapter 431, Hawaii Revised Statutes (“HRS”), and other related chapters. With substitute language requested to be inserted in sections 1, 3, 4, and 14 of the current draft as described below, this measure will do the following:

SECTION 1 of the bill adds a new part to article 10E of chapter 431, HRS, to apply part of sections 431P-10(b) and 431P-17, HRS, to property insurers. For clarification as to authorization by the Commissioner, we request the following proposed language replace the bill’s current language in section 431:10E – extended coverage at page 1, lines 9 to 12:

“Insurers seeking to provide multi-peril coverage for residential property after July 1, 2016 shall submit to the commissioner a written request for permission to write the

coverage. The commissioner may disapprove the request. If the request is disapproved, the insurer shall not write the coverage.”

SECTION 2 of the bill amends section 431:2D-107(g), HRS, to correct a sentence fragment error that was intended to comply with the National Conference of Insurance Legislators (“NCOIL”) Insurance Compliance Self-Evaluative Privilege Model Act.

SECTIONS 3 and 4 of the bill amend sections 431:7-201(a) through (b) and 431:7-202(f), HRS, to increase efficiency and reduce the administrative cost of processing monthly and annual premium tax statements and checks. The premium tax collections would be deposited into the general fund faster and more efficiently. The Department notes that changes in these sections in House Draft 1 of the bill will have an unintended consequence of creating delays in payment and increase administrative oversight and costs. We request language from Senate Draft 2 be substituted in sections 3 and 4 of House Draft 1 as follows:

Section 3

"§431:7-201 Annual and monthly tax statements. (a) Each authorized insurer shall electronically file with the commissioner annually, on or before March 1 in each year, a statement signed by a duly authorized person on its behalf, setting forth the total business transacted, and the amount of gross premiums reported by the insurer, pursuant to section 431:7-202, during the year ending on the preceding December 31, from all risks or property resident, situated, or located within this State, together with such other information as may be required by the commissioner to determine the taxability of premiums. The term "gross premiums" as used in this part shall not include consideration paid for annuities.

(b) Each authorized insurer shall electronically file with the commissioner monthly, on or before the twentieth day of the calendar month following the month in which the taxes accrue, a statement signed by a duly authorized person on its behalf, setting forth the total business transacted and the amount of gross premiums reported by the insurer, pursuant to section 431:7-202, during the month from all risks or property resident, situated, or located within this State, together with other information as may be required by the commissioner to determine the taxability of premiums.

(c) Any insurer failing or refusing to electronically file the annual tax statement on or before March 1, or the monthly statement on or before the twentieth day of the calendar month following the month in which the taxes accrue, shall be liable for a fine in an amount not less than \$100 and not more than \$500 for each day of delinquency."

Section 4

"(f) The taxes imposed by subsections (a), (b), (c), and (d) shall be paid monthly. The monthly tax shall be due and payable by electronic payment via the Automated Clearing House debit or credit payment system on or before the twentieth day of the calendar month following the month in which it accrues, coinciding with the filing of the statement provided for in section 431:7-201.

In addition to the monthly tax and monthly tax statement, the annual tax shall be due and payable by electronic payment via the Automated Clearing House debit or credit payment system on or before March 1 coinciding with the filing of the statement provided for in section 431:7-201.

All amounts paid under this subsection, other than fines, shall be allowed as a credit on the annual tax imposed by subsections (a), (b), (c), and (d).

If the total amount of installment payments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of the annual tax and be allowed as a refund under section 431:7-203.

Any insurer failing or refusing to pay the required taxes above stated when due and payable shall be liable for a fine of \$500 or ten per cent of the tax due, whichever is greater; plus interest at a rate of twelve per cent per annum on the delinquent taxes. The taxes may be collected by distraint, or the taxes, fine, and interest may be recovered by an action to be instituted by the commissioner in the name of this State, in any court of competent jurisdiction. The commissioner may suspend the certificate of authority of the delinquent insurer until the taxes, fine, and interest, should any be imposed, are fully paid.

As used in this subsection, "Automated Clearing House debit or credit payment system" means the network for the interbank clearing of electronic payments for participating depository financial institutions."

SECTION 5 of the bill amends section 431:10-104, HRS, to benefit the public by requiring conspicuous disclosure of preexisting conditions provisions in short-term health policies.

SECTIONS 6 and 7 of the bill amend sections 431:10A-116.6(d) and 431:10A-116.7, HRS, by deleting outdated terms, “nurse practitioner” and “certified nurse midwife”, and inserting “advanced practice registered nurse”.

SECTION 8 of the bill amends sections 431:10A-206.5(a) and (e), HRS, to correct punctuation and add physician assistant-delivered services to maintain uniformity with section 431:10A-115.5, HRS.

SECTION 9 of the bill amends section 431:13-108(c), HRS, to make clear that the person filing a claim is entitled to notice.

SECTIONS 10 and 11 of the bill amend sections 431:19-304 and 431:19-305(a), HRS, to add flexibility to captive laws of sponsored captive insurance companies by allowing a risk retention group (“RRG”) to participate in a sponsored captive insurance company as a protected cell by establishing a separate account to fund the liabilities of the RRG through the sponsored captive insurance company. The amendments also help Hawaii’s sponsored captive insurance legislation stay competitive with other captive domiciles. Captive domiciles such as Vermont, Delaware, Montana, and the District of Columbia allow an RRG to participate in a sponsored captive insurance company.

SECTION 12 of the bill amends section 431M-1, HRS, by adding a new definition for “licensed dietitian”.

SECTION 13 of the bill amends section 431M-4(b), HRS, to add licensed dietitians treating eating disorders as a provider type who can approve an individualized treatment plan, as some health plans currently exclude such coverage.

SECTION 14 of the bill amends section 431P-10(b), HRS, as a result of adding a new part to article 10E of chapter 431, HRS, in SECTION 1 of the bill. For clarity and consistency with proposed language in SECTION 1 of the bill, we propose the following language:

“(b) [~~Upon the authorization of the commissioner, insurers may~~] Insurers seeking to provide [standard extended] multi-peril coverage [endorsements] for residential

property, including multi-peril coverage of the hurricane [risks] peril, subject to the fund's program for incentives and credits[;], shall submit to the commissioner a written request for permission to write the coverage; provided that in the absence of such authorization, no other policy of residential property insurance or endorsement to a policy of residential property insurance on eligible residential property located in this State shall be issued to provide insurance for damages or losses caused by a covered event if such coverage is less than that offered by the fund. If [~~standard extended~~] multi-peril coverage [~~endorsements~~] on commercial property [~~are~~] is no longer being offered by the fund, any [~~standard extended~~] multi-peril coverage [~~endorsements~~] on commercial property offered by an insurer shall qualify as a comparable coverage under section 431P-5(b)(8)(A). [~~Standard extended~~] Multi-peril coverage [~~endorsements~~] on residential property which includes coverage for hurricane losses offered by an insurer shall qualify as a comparable coverage under section 431P-8 5(b)(8)(A).”

SECTION 15 of the bill amends section 431R-5, HRS, to maintain its uniformity with chapter 431, HRS, by requiring an entity to respond during the course of an investigation or examination.

SECTION 16 of the bill amends section 432:1-102(b), HRS, to add two consumer protections (delivery of policy and notice of cancellation or renewal) to mutual benefit societies policies. This section also amends section 432:1-102(b), HRS, to provide coverage-specific services to maintain its uniformity with article 10A of chapter 431, HRS, and chapter 432D, HRS.

SECTION 17 of the bill amends section 432:1-602.5(e), HRS, to add physician assistant-delivered services to maintain its uniformity with article 10A of chapter 431, HRS, and chapter 432D, HRS.

SECTION 18 of the bill amends section 432D-14(b), HRS, to maintain its uniformity with chapter 432, HRS, regarding suspension, revocation, or denial of a certificate of authority.

SECTION 19 of the bill amends section 432D-19(d), HRS, to add two consumer protections (delivery of policy and notice of cancellation or renewal) to health maintenance organization policies.

SECTION 20 of the bill repeals section 431P-17, HRS, as a result of adding a new part to article 10E of chapter 431, HRS, in SECTION 1 of the bill.

SECTION 22 of the bill has defective dates and we would request an effective date of July 1, 2016, except for a delayed effective date of January 1, 2017 for sections 3 and 4.

We thank the Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INSURANCE, Require Electronic Filing and Payment for Premium Taxes

BILL NUMBER: SB 2854, HD-1

INTRODUCED BY: House Committee on Consumer Protection & Commerce

EXECUTIVE SUMMARY: Sections 3 and 4 of the bill require e-filing and e-payment of premium tax returns. The bill as it now exists sets a liability threshold which the Insurance Commissioner thinks is not necessary. It also dissociates filing and payment, which decreases administrative efficiency.

BRIEF SUMMARY: This is an omnibus insurance bill submitted by the department of commerce and consumer affairs CCA-09 (16). Sections 3 and 4 of this bill impact filing and payment of insurance premium taxes.

Section 3, relating to filing of annual and monthly tax statements, amends HRS section 431:7-201 to add provisos that require the insurer to file electronically if the tax liability of the insurer exceeds \$100,000 (presumably per year).

Section 4 amends HRS section 431:7-202(f) to clarify that premium tax payments shall be payable by electronic payment via the Automated Clearing House debit or credit payment system. It further amends that subsection to delete the current requirement that the payment of tax be coincident with the filing of the tax return.

EFFECTIVE DATE: Sections 3 and 4 take effect on January 1, 2051. The balance of the bill is effective July 1, 2050.

STAFF COMMENTS: From Insurance Commissioner's Memorandum 2015-2E, dated January 15, 2015, it appears that the Insurance Division has allowed electronic filing since the beginning of 2015 and has already advised insurers that it may require electronic filing at a later date. At present the Insurance Division accepts electronic filing with electronic payment, or paper filing with paper check payment.

Electronic filing requires some form of acceptable electronic signature. The Uniform Electronic Transactions Act, HRS chapter 489E, allows an agency to accept one by appropriate administrative action. This can be taken care of without legislation.

Electronic payment is mandated by this bill with a liability threshold, as is done for other taxes in HRS section 231-9.9. The Insurance Division has advised that a liability threshold is not necessary because its taxpayer population consists only of insurers, who presumably are more sophisticated than the general taxpaying public and can adapt to electronic filing and payment more easily.

The bill in its present form dissociates the filing and payment requirements. Certainly, it would be more efficient administratively to require the two together, as is required by the statute as it now exists. Otherwise, Insurance Division workers will need to spend more time hunting down payments to match the returns filed. We question what good is accomplished by separating the two.

Digested 3/30/2016



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To: The Honorable Sylvia Luke, Chair
The Honorable Scott Nishimoto, Vice Chair
House Committee on Finance

From: Mark Sektnan, Vice President

Re: SB 2854 SD2 HD1 Relating to Insurance
PCI Position: Comments

Date: Friday, April 1, 2016
Conference room 308; 1:00 PM; **Agenda #2**

Aloha Chair Luke, Vice Chair Nishimoto and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to provide comments on SB 2854 SD2 HD1 which makes various updates to title 24, Hawaii Revised Statutes.

PCI is unsure why the following provision is necessary as all rates must be submitted to the Division for its prior approval.

§431:10E- Extended coverage. Authorization of the commissioner is required for insurers seeking to provide standard extended coverage endorsements for residential property, including coverage of hurricane risks."

The term "authorization" is undefined so it is unclear as to what an insurer would need to do to obtain it.

SB 2854 SD2 HD1 also mandates that insurers file their annual statement and premium tax statements electronically and that they pay their premium taxes electronically. Although PCI supports the intent of these sections, we ask that they take effect on January 1, 2017 to give insurers who are not now filing electronically adequate time to set up their systems with the Division.

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.

Thank you again for your consideration of our comments.



An Independent Licensee of the Blue Cross and Blue Shield Association

April 1, 2016,

The Honorable Sylvia Luke, Chair
The Honorable Scott Y. Nishimoto, Vice Chair
House Committee on Finance

Re: SB 2854, SD2, HD1 – Relating to Insurance

Dear Chair Luke, Vice Chair Nishimoto, and Committee Members:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2854, SD2, HD1, which amends various sections of the Insurance Code. HMSA supports this Bill.

While we had several concerns with earlier versions of this legislation, we certainly are appreciative of the proponent of this measure understanding those concerns. And, we further appreciate the prior committees addressing those concerns within this draft.

Thank you for allowing us to testify on SB 2854, SD2, HD1.

Sincerely,

Jennifer Diesman
Vice President, Government Relations.