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TO THE SENATE COMMITTEE ON
WAYS AND MEANS

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Thursday, February 25, 2016
9:30 am

WRITTEN TESTIMONY ONLY

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

TO THE HONORABLE JILL N. TOKUDA, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance 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 Hawaii’s Insurance Code in a number of areas. Specifically, this measure will do the following:

SECTION 1 of the bill adds a new part to article 10E of chapter 431 to apply part of section 431P-10(b) and section 431P-17 to property insurers.

SECTION 2 of the bill amends section 431:2D-107(g) 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 (c) and 431:7-202(f) to reduce the administrative cost of processing monthly and annual premium tax statement and checks. The premium tax collections would be deposited into the general fund faster and more efficiently.

SECTION 5 of the bill amends section 431:10-104 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SECTIONS 6 and 7 of the bill amend sections 431:10A-116.6(d) and 431:10A-116.7 by deleting outdated terms, “nurse practitioner” and “certified nurse midwife”, and inserting “advanced practice registered nurse”.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) to correct punctuation and add physician assistant-delivered services to maintain uniformity with section 431:10A-115.5.

SECTION 9 of the bill amends section 431:13-108(c) 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) 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 by adding a new definition for “licensed dietitian”.

SECTION 13 of the bill amends § 431M-4(b) 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 § 431P-10(b) as a result of adding a new part to article 10E of chapter 431 in SECTION 2 of the bill.

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

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

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

SECTION 18 of the bill amends § 432:1-604.5(d) by deleting outdated terms, “nurse practitioner” and “certified nurse midwife”, and inserting “advanced practice registered nurse”, and also adds pharmacist-delivered medical contraceptive services to maintain uniformity with article 10A of chapter 431 and chapter 432D.

SECTION 19 of the bill amends § 432D-14(b) to maintain its uniformity with chapter 432 regarding suspension, revocation, or denial of a certificate of authority.

SECTION 20 of the bill amends § 432D-19(d) to add two consumer protections (delivery of policy and notice of cancellation or renewal) to health maintenance organization policies.

SECTION 21 of the bill repeals § 431P-17 as a result of adding a new part to article 10E of chapter 431 in SECTION 2 of the bill.

This bill has 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

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

BILL NUMBER: SB 2854, SD-1

INTRODUCED BY: Senate Committee on Commerce, Consumer Protection, and Health

EXECUTIVE SUMMARY: Sections 3 and 4 of the bill require e-filing and e-payment of premium tax returns. Consideration might be given to setting liability thresholds at which the filing and/or payment requirements are triggered.

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 replace “shall file” with “shall electronically file” wherever the phrase appears.

Section 4 amends HRS section 431:7-202(f) to replace “shall be due and payable” with “shall be due and payable by electronic payment via the Automated Clearing House debit or credit payment system” wherever the phrase appears.

EFFECTIVE DATE: Sections 3 and 4 take effect on January 1, 2017. The balance of the bill is effective July 1, 2016.

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. None is provided for in the bill as it now exists, but electronic signatures are apparently accepted now.

Electronic payment is mandated by this bill without setting any liability thresholds, as is done for other taxes in HRS section 231-9.9. Consideration might be given to setting liability thresholds that would trigger the e-payment requirement.

In addition, requiring in “cold turkey” fashion that payments be made by electronic funds transfer may have the result of delaying the filing of returns until the very last day that the tax is due. This might place an undue burden on administrators in the processing of returns.

Digested 2/23/2016



To: The Honorable Jill Tokuda, Chair
The Honorable Donovan Dela Cruz, Vice Chair
Senate Committee on Ways and Means

From: Mark Sektnan, Vice President

Re: SB 2854 SD1 Relating to Insurance
PCI Position: Concerns, request amendments

Date: Thursday, February 25, 2016
9:30 a.m., Room 211

Aloha Chair Tokuda, Vice Chair Dela Cruz and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) has concerns regarding **SB 2854 SD1** which, among other things, requires the companies to seek authorization from the Insurance Commissioner.

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.

Section 2 of the bill adds a new part and requires insurers to seek authorization from the commissioner if an insurer wishes to provide standard extended coverage endorsements for residential property, including hurricane insurance. The term "authorization" is undefined so it is unclear as to what an insurer would need to do to obtain it. PCI is unsure why this provision is necessary as all rates must be submitted to the Division for its prior approval.

SB 2854 SD1 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 instead of July 1, 2016 to give insurers who are not now filing electronically adequate time to set up their systems with the Division.

For these reasons, PCI requests the committee amend the bill to address these concerns.