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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
and
House Committee on Judiciary
Thursday, February 21, 2019
2:15 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 273, RELATING TO PRIVACY NOTICE FOR INSURANCE**

Chair Takumi, Chair Lee, and Members of the Committees:

My name is Colin Hayashida, 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 establish an exemption for insurers to the required annual privacy notice to customers under certain circumstances.

Current law requires an insurer to annually send notices regarding its privacy policies and practices to its customers. This bill removes this annual requirement if, since its last sent notice to customers, an insurer has provided nonpublic personal information to a nonaffiliated third party and the insurer has not changed its policies and practices regarding its ability to disclose the nonpublic information. If this change becomes law, after an initial notice, an insurer may never have to send to customers notices regarding its policies and practices disseminating customers' nonpublic personal

Testimony of DCCA

H.B. 273

Page 2 of 2

information to nonaffiliated third parties while continuously engaging in the release of this nonpublic personal information.

Thank you for the opportunity to testify on this bill.

Testimony of
John M. Kirimitsu
Legal and Government Relations Consultant

Before:
House Committee on Consumer Protection & Commerce
The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
and
House Committee on Judiciary
The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair

February 21, 2019
2:15 pm
Conference Room 329

HB 273 Relating to Privacy Notice for Insurance

Chairs, Vice Chairs, and committee members, thank you for this opportunity to provide testimony on this measure establishing an exemption for insurers to the required annual privacy notice under certain circumstances.

Kaiser Permanente Hawaii supports this measure.

Although Hawaii law requires health insurers to send annual privacy notices to all individuals covered by a group policy, the federal privacy rule (HIPAA Privacy Rule) does not require an annual notice.

Under the federal privacy rule, health insurers must provide its notice of privacy practices upon enrollment or if there are any changes in its privacy practices. Otherwise, health insurers are required to notify individuals every three years of the availability of the notice and how to obtain it. Kaiser also makes these privacy notices readily available through postings on its website and at its facilities.

Therefore, this bill's exemption of removing the annual notice requirement will bring us more in alignment with the federal privacy rule, i.e., only requiring notice if there are any changes in the privacy rules. It makes sense that if the insurers privacy practices have not changed, insurers should not be obligated (and burdened) to do the annual notice.

Thank you for your consideration.

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**HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE**

AND

**HOUSE COMMITTEE ON
JUDICIARY**

February 21, 2019

House Bill 273 Relating to Privacy Notice for Insurance

Chair Takumi, Chair Lee, members of the House Committee on Consumer Protection and Commerce, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about House Bill 273 Relating to Privacy Notice for Insurance.

The Financial Services Modernization Act of 1999 (“Gramm-Leach-Bliley” or “GLB”) includes provisions to protect consumers’ personal financial information held by financial institutions, including insurance companies. GLB requires companies to give consumers privacy notices that explain their information-sharing practices, including how they handle and protect the nonpublic personal information. Originally, this included sending an annual notice to consumers explaining the company’s policy and practices concerning the use and protection of the information. Every year, a company like State Farm was required to send tens of millions of notices, each consisting of several pages. The amount of paper and resources involved is staggering, and wasteful, and for most consumers it was just more piece of mail invading their mail box.

Recognizing that annual notices are redundant and do little to educate consumers, Congress passed, and the President signed, the 2015 Federal Fixing America’s Surface Transportation Act (FAST Act), which amended the GLB’s annual privacy notice requirement. Under this law, financial institutions no longer need to send annual privacy notices if: (1) the financial institution only discloses nonpublic personal information to nonaffiliated third parties in accordance with the exceptions set forth in the GLB; and (2) the financial institution has not changed its policies and practices with regard to disclosing nonpublic personal information from those that were disclosed in its most recent privacy notice. In other words, if the company has not changed the way it handles private information, it need not give the same notice, year after year. This promotes administrative efficiency and eliminates unnecessary, ineffectual annual notices that were formerly required by the GLB.

Because insurance is state-regulated, state regulators, like the Hawaii Insurance Division, implement and enforce the GLB for insurers. This means that the provisions of the 2015 FAST Act must be enacted in each state. So far 35 states have adopted provisions to allow insurers to take advantage the FAST Act’s relief from the annual privacy notice requirement. The National

Association of Insurance Commissioners (NAIC) has adopted a model bulletin ([“Gramm Leach Bliley Act \(GLBA\) Annual Privacy Notices NAIC Model Bulletin](#)) and is finalizing amendments to Model Regulation #672, “Privacy of Consumer Financial and Health Information Regulation,” to facilitate adoption of FAST Act changes in the insurance marketplace. The model Bulletin notes:

On Dec. 4, 2015, the Fixing America’s Surface Transportation (FAST) Act was enacted into law and effective immediately. The FAST Act includes amendments to the GLBA to eliminate the requirement for financial institutions to provide GLBA annual notices provided certain conditions are met. **The amendments eliminate a duplicative and costly notification requirement. Financial institutions continue to be required to provide initial privacy notices as required under the GLBA.** [Emphasis added.]

The language in House Bill 273 mirrors that in the 2015 Federal FAST Act, and merely states that, as long as the insurer is handling nonpublic personal information the same way it did at the time of its last privacy notice, it need not send redundant notices every year. This does not mean that consumers will not otherwise have access to information about their insurer’s privacy policy. State Farm, for example, posts its privacy policy on its website—[Notice of Privacy Policy](#)—and insureds can always get it from their State Farm Agent.

Thank you for the opportunity to present this testimony.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN SUPPORT OF HB 273, RELATING TO INSURANCE

February 21, 2019

Via e mail: capitol.hawaii.gov/submittestimony.aspx

Honorable Representative Roy M. Takumi, Chair
Committee on Consumer Protection and Commerce
Honorable Representative Chris Lee, Chair
Committee on Judiciary
State House of Representatives
Hawaii State Capitol, Conference Room 329
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Takumi, Chair Lee and Committee Members:

Thank you for the opportunity to testify in support of HB 273, Relating to Insurance.

Our firm represents the American Council of Life Insurers (“ACLI”). ACLI advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers’ financial and retirement security. 90 million American families depend on our members for life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers’ products for peace of mind. ACLI members represent 95 percent of industry assets in the United States. Two hundred twenty-one (221) ACLI member companies currently do business in the State of Hawaii; and they represent 95% of the life insurance premiums and 99% of the annuity considerations in this State.

In accordance with the privacy provisions of the federal Gramm Leach Bliley Act (GLBA) Hawaii law currently requires an insurer to send annual privacy notices to all of its customers.

However, in December of 2015, President Obama signed the Fixing America’s Surface Transportation Act (FAST Act) which included amendments to the privacy provisions of the GLBA. Those amendments eliminated the costly and time consuming requirement of redundant annual privacy notices provided that the institution: (i) only discloses consumers’ nonpublic personal information in accordance with the GLBA and implementing regulations; and (ii) has not changed its privacy policies and practices as described in the institution’s most recent privacy notice sent to consumers.

Currently, thirty-two states have already adopted the FAST Act amendments in their insurance privacy notice laws.

Consistent with the FAST Act amendments, HB 273 would not require an insurer to send an annual privacy notice to its customer provided that that customer’s nonpublic personal financial information is not improperly disclosed or used in accordance with the provision of Sections 3A

-401, 3A -402 or 3A -403 of the Insurance Code; and the insurer's policies and practices relating to disclosure of the individual's nonpublic personal information remain unchanged. As applied to group policies provided the information satisfies the FAST Act requirements, as detailed in the previous sentence, HB 273 would allow an insurer to send the annual notice to just the group policyholder rather than to all individuals covered by the group policy.

ACLI believes that life insurers, like other financial institutions, should not be required to provide annual GLBA privacy notices if they meet the FAST Act requirements. Privacy notices should be meaningful – not redundant and confusing.

As the proposed legislation will streamline, economize and simplify annual privacy notice obligations to the benefit of consumers ACLI supports HB 273 and its passage by this committee.

Again, thank you for the opportunity to testify in support of HB 273, Relating to Insurance.

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To: The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection and Commerce.

The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
House Committee on Judiciary

From: Mark Sektnan, Vice President

Re: **HB 273 -- PRIVACY NOTICE FOR INSURANCE.**
APCIA POSITION: SUPPORT

Date: Thursday, February 21, 2019
2:15 p.m., Conference Room 329

Aloha Chair Takumi, Chair Lee and Members of the Committees:

The American Property Casualty Insurance Association of America (APCIA) is pleased to **support HB 273** which establishes an exemption for insurers to the required annual privacy notice to customers under certain circumstances. Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

The language in HB 273, in part, reflect changes made to the Gramm-Leach-Bliley Act (GLBA) in 2015. Those changes eliminated the requirement that financial institutions provide annual privacy notices when a financial institution has not changed its privacy policies and practices, as described in its most recent privacy notice, and only provides nonpublic personal information to nonaffiliated third parties in accordance with certain provisions of the GLBA or implementing regulations.

The amendments to the GLBA made by Congress, and reflected in the proposed bill, make good sense for a number of reasons, including:

- The modifications to the GLBA streamline and simplify redundant annual privacy notice obligations.

- The modifications to the GLBA will benefit insurance licensees and their customers and have a positive benefit on the environment. Fewer paper notice obligations will benefit the environment, insurers and consumers.
- The modifications to the GLBA enjoyed strong bipartisan support in Congress in a time of gridlock. The amendments to the GLBA were included in the Fixing America's Surface Transportation (FAST) Act, which was signed into law on December 4, 2015.

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

Hawaii State Legislature
House Committee on Consumer Protection and Commerce
House Committee on Judiciary

February 18, 2019

Filed via electronic testimony submission system

RE: HB 273, Privacy Notice for Insurers – NAMIC’s Testimony in Support

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 21, 2019 public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation. NAMIC’s written comments need not be read into the record, so long as they are referenced as a formal submission and are provided to the committee for consideration.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country’s largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 84 members who write property/casualty/workers’ compensation in the State of Hawaii, which represents 28% of the insurance marketplace.

NAMIC is please to support HB 273, which will implement the federal Fixing America’s Surface Transportation Act (FAST Act) amendments to the Gramm Leach Bliley Act (GLBA). These pro-administrative efficiency amendments eliminate the unnecessary annual privacy notice requirement contained in the GLBA.

The national trend has been to streamline and reduce *redundant* consumer notices that needlessly waste resources and provide no benefit to the consumer. The National Association of Insurance Commissioners (NAIC) adopted a model bulletin (“Gramm Leach Bliley Act (GLBA) Annual Privacy Notices NAIC Model Bulletin) and are finalizing amendments to Model Regulation #672, “Privacy of Consumer Financial and Health Information Regulation, to facilitate adoption of FAST Act changes in the insurance marketplace. HB 273 is substantively consistent with the NAIC bulletin and legislation being passed throughout the country.

NAMIC supports the FAST Act and the proposed legislation for the following reasons:

- Consumer notices should be meaningful and efficient, not redundant, confusing and needlessly burdensome. The proposed legislation will streamline, economize and simplify annual privacy notice obligations to the benefit of consumers.
- HB 273 is green-friendly, regulator-friendly, and consumer-friendly. Reducing the number of redundant consumer notices benefits the environment, saves regulators time and effort reviewing and approving superfluous consumer notices, and saves consumers from receiving another annual notice for them to have to read and possibly inquire about to their insurer.

NAMIC's members strive to make sure that their policyholders are *appropriately* informed of their privacy rights, and as part of their pro-consumer protection commitment insurers support thoughtful legislation like HB 273 that promotes *appropriate disclosures* and prevents consumers from being burdened with unnecessary annual notices.

For the aforementioned reasons, NAMIC respectfully requests a **YES VOTE on this common-sense legislation to protect consumers from being inundated with redundant annual notices that provide no additional information-exchange value to the consumer.**

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,



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



An Independent Licensee of the Blue Cross and Blue Shield Association

February 21, 2019

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection & Commerce

LATE TESTIMONY

The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
House Committee on Judiciary

Re: HB 273 – Relating to Privacy Notice For Insurance

Dear Chair Takumi, Chair Lee, Vice Chair Ichiyama, Vice Chair San Buenaventura, and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 273, which establishes an exemption for insurers to the required annual privacy notice to customers under certain circumstances.

The current law requires insurers to send annual updates about our privacy policy to members under certain circumstances. This bill would extend the exceptions under the current law to the Initial Notice and Opt Out requirements to the Annual Notice requirement. We see this as a way to streamline the current law and assist health plans to contain associated administrative costs. Therefore, we have no objections to this measure.

Thank you for the opportunity to provide testimony in support of this measure.

Sincerely,

Jennifer Diesman
Senior Vice President, Government Relations