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**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Finance
Wednesday, March 27, 2019
2:00 p.m.
State Capitol, Conference Room 308**

**On the following measure:
S.B. 817, S.D. 2, H.D. 1, RELATING TO SELF-SERVICE STORAGE**

Chair Luke and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department has strong concerns regarding this bill.

The purpose of this bill is to establish a new article in Hawaii Revised Statutes (HRS) chapter 431 to create a limited lines license to sell, solicit, or offer self-service storage facility occupants' insurance, establish initial and renewal licensing fees, and establish sanctions for violations.

The Department is unaware of any consumer demand or need to create this limited lines license. The Department has also not received any indication from consumers stating their preference to purchase insurance for their property directly from self-storage facility personnel. The Department is similarly not aware of any data showing that by the creation of a limited lines self-storage license, property insurance

would become more affordable for self-storage renters or that more renters would be induced to purchase such coverages.

Currently, the National Association of Insurance Commissioners (NAIC) recognizes four core limited lines of insurance: car rental, credit, crop, and travel. Two other non-core limited lines which are recognized by the NAIC, but are not required to be adopted by states, are pet and legal expense. Self-service storage is not one of the NAIC-recognized limited lines.

The NAIC does not require a state to establish any non-core limited line of authority that is already authorized within an existing major line of authority. Self-service storage insurance may currently be purchased from licensed insurers through existing licensed property and casualty producers. Owners and employees of self-storage facilities do not need a limited lines license to provide insurance brochures or printed information to prospective consumers, and there is nothing prohibiting a self-storage facility from referring a prospective buyer to an insurance company or a licensed property and casualty producer. Licensed property and casualty producers would have general knowledge and experience selling homeowners insurance, rental insurance, vehicle insurance, watercraft insurance, or other types of property insurance and could assist with answering renters' questions regarding appropriate coverage and liability. Licensed producers would also be knowledgeable about proper fiduciary responsibilities when handling premiums. Consumer protection safeguards and industry standards in HRS chapter 431, article 9A are absent from this bill.

This bill, as currently written, changes the existing regulatory licensing scheme and creates an unlevel playing field in favor of limited lines producers when compared to fully licensed producers. The Department notes the following concerns, among others, which are problematic in the implantation of this new limited lines license:

1. Page 3, lines 17-18. The door is opened for the offering of insurance from authorized carriers and surplus lines carriers, at the same time, to consumers when surplus lines insurance may only be sold in narrow circumstances. Steering of consumers to surplus lines coverages may be a possibility with the risk factor being surplus lines carriers are not regulated by the State and the State having no enforcement authority over these carriers. The offering of

- insurance from an insurer at a self-service storage facility may also raise questions as to the motivations of, or benefits to, the self-storage facility from sales of insurance.
2. Page 4, lines 1-5. There is no limit as to the number of people who may sell under the proposed limited lines license. There is also no requirement that names of people selling insurance under this limited lines license is reported to the Insurance Division. The Division will not know who is selling coverages under these licenses unless a request is made to review facility documents.
 3. Page 4, lines 8-12. The Insurance Commissioner must give 10 days' notice before the Commissioner can review and inspect the registry which would hamper and delay the Commissioner from enforcing regulation. This requirement is much more lax than the Commissioner's authority over full line producers and impacts the Commissioner's regulatory ability to efficiently function.
 4. Page 6, lines 13-16. It is unclear what, if any, requirements need to be met by owners and employees to sell insurance. It appears that requirements could vary from facility to facility with no standardization in place.
 5. Page 6, lines 17-20. Eligibility and underwriting standards will vary from location to location with no standardization in place.
 6. Page 7, line 8 to page 8, line 11. There is no standard on the type of training to be given and no standard regarding the qualification of the person conducting the training.
 7. Page 9, lines 5-10. An insurer premium trust account will not be required, which is the opposite of what is required from a full line producer.
 8. Page 9, lines 13-14. An owner may be operating as a third-party administrator for the insurer if the owner is compensated for billing and collection services. That means that the owner, as the producer, will be consummating and reporting sales to itself, as the administrator, which can be very problematic.

9. Page 11, lines 5-8. The licensing renewal period established for this limited lines license is inconsistent with the license renewal scheme implemented for all other licenses.
10. Page 11, lines 9-12. The initial and renewal license fees for this proposed limited lines license are drastically disproportionate from similar licenses and should be consistent with the fees set forth in HRS section 431:7-101.
11. Page 11, line 21. Should this bill move forward, the effective date should allow for enough lead time for the Insurance Division to create forms and for applicants to create proper training programs.

The Department is respectfully attaching a proposed H.D. 2 for the Committee's consideration. This proposal seamlessly integrates the self-storage limited lines license into the existing limited license statutory scheme and conforms the regulation of self-storage licenses with the regulation of other limited lines licenses in this state.

Thank you for the opportunity to testify on this bill.

A BILL FOR AN ACT

RELATING TO SELF-SERVICE STORAGE.

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

1 SECTION 1. Chapter 431, article 9A, Hawaii Revised
2 Statutes, is amended by adding a new section to be appropriately
3 designated and to read as follows:

4 "§431:9A- Self-service storage limited line license.

5 (a) A natural person, and not a business entity, may apply for
6 and be issued a license by the commissioner.

7 (b) A producer under this section shall not offer or sell
8 insurance unless the producer has complied with the requirements
9 of this article and has been issued a license by the
10 commissioner.

11 (c) A producer under this section may sell insurance
12 provided the following conditions are satisfied:

13 (1) The producer provides brochures or other written
14 material to the prospective renter that includes the
15 following:

1 (A) A summary of the material terms and conditions of
2 coverage offered to renters, including the
3 identity of the insurer;

4 (B) A description of the process for filing a claim,
5 including a toll-free telephone number to report
6 a claim;

7 (C) A disclosure of any additional information
8 regarding price, benefits, exclusions,
9 conditions, or other limitations of the types of
10 insurance that the commissioner may prescribe;
11 and

12 (D) The producer's name, address, telephone number,
13 and license number.

14 (2) The producer shall make the following disclosures to
15 the renter, which shall be acknowledged in writing by
16 the renter:

17 (A) Purchasing insurance is not required to rent
18 storage space. However, the producer may inform
19 the renter that the self-service storage
20 facility's rental agreement may contain
21 provisions requiring the renter to provide
22 insurance on the renter's property in the storage
23 unit;

1 (B) The insurance policies offered by the producer
2 may provide duplication of coverage already
3 provided by a renter's homeowners insurance
4 policy or by another source of coverage; and
5 (C) The producer is not qualified or authorized to
6 evaluate the adequacy of the purchaser's existing
7 insurance coverage.

8 (c) If a renter elects to purchase coverage, evidence of
9 the purchased coverage shall be stated on the face of the rental
10 agreement.

11 (d) The insurance shall be provided by a licensed insurer
12 in this State.

13 (e) As used in this section:

14 (1) "Commissioner" means the insurance commissioner as
15 defined in section 431:2-102.

16 (2) "Rental agreement" means any written agreement for the
17 terms and conditions governing the use of a storage
18 space provided by a self-service storage company.

19 (3) "Renter" means any person who obtains the use of
20 storage space from a self-service storage company
21 under the terms of a rental agreement.

22 (4) "Storage space" means a room, unit, locker, or open
23 space offered for rental to the public for temporary

1 storage of personal belongings or light commercial
2 goods.

3 (5) "Self-service storage limited line producer" means a
4 natural person licensed pursuant to this article to
5 offer insurance in connection with, and incidental to,
6 rental agreements on behalf of a licensed insurer
7 authorized to write the types of insurance in this
8 state."

9 SECTION 2. Section 431:9A-107.5, Hawaii Revised Statutes,
10 is amended to read as follows:

11 "**§431:9A-107.5 Limited license.** (a) Notwithstanding any
12 other provision of this article, the commissioner may issue:

13 (1) A limited license to persons selling travel tickets of
14 a common carrier of persons or property who shall act only as to
15 travel ticket policies of accident and health or sickness
16 insurance or baggage insurance on personal effects;

17 (2) A limited license to each individual who has charge of
18 vending machines used in this State for the effectuation of
19 travel insurance;

20 (3) A limited license to any individual who sells policies
21 of accident and health or sickness insurance as a promotional
22 device to improve the circulation of a newspaper in this State;

23 [~~or~~]

1 (4) A limited line credit insurance producer license to
2 any individual who sells, solicits, or negotiates limited line
3 credit insurance[-]; or

4 (5) A limited license to an individual who sells self-
5 storage insurance.

6 (b) The commissioner may prescribe and furnish forms
7 calling for any information that the commissioner deems proper
8 in connection with the application for or extension of these
9 limited licenses.

10 (c) The limited license shall not be issued until the
11 license fee has been paid.”

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 4. The revisor of statutes shall insert the
16 effective date of this Act in the appropriate places in section
17 2 of this Act.

18 SECTION 5. This Act shall take effect on January 1, 2020.

Report Title:

Self-service Storage; Stored Property Insurance; Limited Lines License

Description:

Authorizes the sale of stored property insurance by self-service storage facility owners under certain conditions. Requires self-service storage facility owners to hold a limited lines license in order to sell, solicit, or offer coverage under a stored property insurance policy. Effective 7/1/2050. (HD1 PROPOSED)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



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Hearing Date: Wednesday, March 27, 2019
Time: 2:00 p.m.
Place: House Conference Room 308

The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair
House Committee on Finance

Re: Testimony in Support of S.B. No. 817, S.D. 2, H.D. 1 – Relating to Self-Service Storage

Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance:

My name is Alison Vasconcellos, District Manager of StorQuest Self Storage in Hawaii, testifying in strong support of S.B. No. 817, S.D. 2, H.D. 1, which authorizes the sale of stored property insurance by self-service storage facility owners under certain conditions and requires self-service storage facility owners to hold a limited lines license to sell, solicit, or offer coverage under a stored property insurance policy.

I have four points that I'd like to share with the Committee:

- Tenant demographic has shifted in recent years. Now, most of our tenants are without a house/in transition. They do not have renters' or homeowner's insurance. For many, most of their belongings are in their storage unit.
- Policies offered by self-storage companies are tailored to storage, have low monthly premiums and low deductibles.
- Those that have renters' or homeowner's insurance are subject to a much larger deductible which often surprises them when they need to make a claim.
- Finding an insurer that offers a separate self-storage insurance policy in Hawaii is difficult to find.

Thank you for the opportunity to share my perspective. I respectfully request that you pass S.B. No. 817, S.D. 2, H.D. 1.

Alison Vasconcellos
District Manager
Ph: 808.542.1601
avasconcellos@williamwarren.com



March 26, 2019

Hearing Date: Wednesday, March 27, 2019

Time: 2:00 p.m.

Place: House Conference Room 308

The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair
House Committee on Finance

Re: Testimony in Support of S.B. No. 817, S.D. 2, H.D. 1 – Relating to Self-Service Storage

Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance:

My name is Carlos Kaslow, General Counsel of the national Self Storage Association, testifying in strong support of S.B. 817, S.D. 2, H.D. 1, which authorizes the sale of stored property insurance by self-service storage facility owners under certain conditions and requires self-service storage facility owners to hold a limited lines license to sell, solicit, or offer coverage under a stored property insurance policy. S.B. 817 is the Senate companion to H.B. 269, which the House Committee on Consumer Protection and Commerce deferred earlier this session because S.B. 817 was moving.

The Self Storage Association is a not-for-profit trade organization representing the 30,000 owners of 55,000 self storage facilities in the country.

Property stored in a self-service storage unit is in the care, custody, and control of the storage tenant; the storage tenant is responsible for insuring the property. However, approximately 50% of storage tenants are in transition and do not have a homeowner's or renter's insurance policy covering their stored property. Moreover, stand-alone insurance coverage for stored property is not typically offered by insurance agents because the commission payments are low.

Thirty-two states (the Governor of Mississippi signed a self storage insurance bill into law two weeks ago) have solved this gap in available coverage by statutorily permitting self-service storage facilities to offer storage insurance to their tenants. A map of the states that permit self storage facilities to offer storage insurance to their tenants is attached. These insurance policies are underwritten by companies such as AIG and Hanover.

Highlights of S.B. 817, S.D. 2, H.D. 1:

- The self-service storage facility owner must obtain a limited lines license to offer, solicit, or sell storage insurance.
- The self-service storage facility owner cannot require the storage tenant to purchase the storage insurance offered by the owner.
- The self-service storage operator may not offer storage insurance at its facility unless the operator works with a supervising entity. A supervising entity is a fully licensed producer or insurance company.

- Employees and authorized representatives of self-service storage facility owners may offer, solicit, or sell stored property insurance without an individual license, only if the owner is licensed, a supervising entity supervises the program, and the employees and authorized representatives do not hold themselves out as licensed producers.
- The self-service storage facility owner must make written disclosures to the storage tenant, including disclosures regarding possible duplication of coverage, the available benefits, the process for filing a claim, and the amount of any deductible.
- As added by the House Intrastate Commerce Committee, the self-storage facility owner must also make a written disclosure that: (i) stored property insurance may be purchased through licensed property and casualty producers, who may have more general knowledge and experience selling insurance and may better assist the occupant; and (ii) owners and employees operating under a limited lines license are not required to meet all of the requirements of a licensed insurance producer.
- The employees and authorized representatives of the self-service storage facility who sell, solicit, or offer storage insurance must receive training specified in the Act.
- The self-service storage facility tenant must be permitted to cancel the insurance at any time and receive a refund or credit of the unearned premium.
- The Insurance Commissioner has enforcement authority against any self-service storage facility owner that violates the Act.

Over the past year, we have been in discussions with the former Insurance Commissioner and members of the Insurance Division regarding the authorization of a limited lines license for storage insurance. The position of the former Insurance Commissioner regarding such a limited license had evolved over the years, and based on our discussions we drafted the proposed bill that is before you. [S.B. 817 is a blend of Hawaii's structure for the sale of portable electronics insurance as set forth in HRS § 431:31-101, et. seq., the disclosure provisions of New York and Oregon, and the return of premium provision of the New York law. Also included are placeholder amounts for the license fees (initial and renewal).] We did not, however, have time to have the Insurance Division review our draft proposal before the legislative session convened.

Since that time, we have worked with new Insurance Commissioner Hayashida and Insurance Division staff to try and figure out the best way to regulate the sale of storage insurance in Hawaii, whether it be following the lead of 32 other states in either authorizing a limited line license or providing an exemption from licensing (as two states do), or something else.

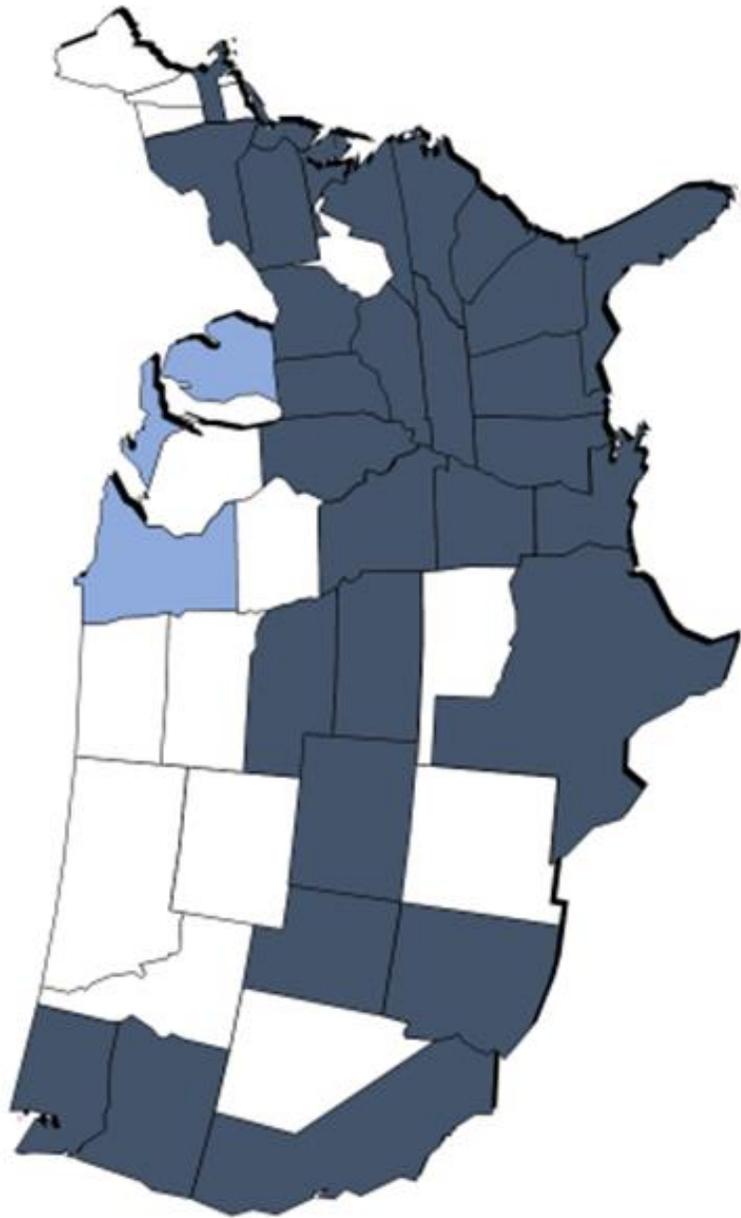
Finally, some questions were raised in testimony by the Insurance Commissioner and Hawaii Independent Insurance Agents Association ("HIIAA") in previous hearings. We have been e-corresponding with the Insurance Commissioner and have, we believe, adequately answered his questions; our efforts are ongoing. Our answers to the HIIAA's questions are in Appendix 1 of this testimony.

We respectfully request that you move S.B. 817, S.D. 2, H.D. 1 forward and allow us to continue to work with the Legislature and the Insurance Commissioner to craft a good law.

Sincerely,

Carlos Kaslow
General Counsel, Self Storage Association

Tenant Insurance



Currently, 32 states have established a Limited Lines program for self storage tenant insurance. Minnesota and Michigan provide licensing exemptions.

APPENDIX 1

Self Storage Association's answers to Hawaii Independent Insurance Agents Association's questions raised in House IAC testimony (3/12/2019):

I. Insurance Policy:

The bill states a brochure or electronic material will be provided, but it does not indicate whether or not the "occupant" that purchased the coverage will ever receive a policy or other document which actually evidences coverage, terms, conditions and exclusions.

Self Storage Association ("SSA"): Occupants receive a certificate that evidences the coverage, terms, conditions, exclusions, etc.

II. Fiduciary Responsibility:

The bill states that any "premium" collected will not be required to be put in a segregated account, but Hawaii agencies are required to maintain a separate account for client premiums.

SSA: This is consistent with the language in Hawaii's existing law for portable electronics insurance licensing. [See, HRS § 431:31-104(b).] The purchase of self storage insurance is necessarily incidental to the rental of a self storage unit. The income from the purchase of insurance is dwarfed by the income from the rental of units. The purchase of insurance and the rental of the unit are invoiced and paid together, with separate line items for each. It would be unnecessarily burdensome for the storage operator and the consumer if the transactions had to be separately invoiced and paid or if the operator had to hold all revenue in a fiduciary capacity.

It should be noted that all licensed self storage operators must work with a supervising entity. The supervising entity (producer or company) is licensed and regulated by the department and has the same relationship with the individual insured as a company or producer has with its clients. Ultimately, the supervising entity oversees and is responsible for compliance with all Hawaii insurance code requirements.

III. Producer Licensing:

The bill currently states that the "owner" would hold a limited lines (producers) license to sell, solicit or offer coverage, but the "owner" could be a non-resident on the mainland and give a "blanket" authorization for employees and authorized representatives here to act on their behalf.

SSA: Other limited lines allow for non-resident licensing. The employees and authorized representatives of the licensed owner must receive training prior to selling the insurance coverage. Furthermore, the Insurance Commissioner may sanction an owner that violates the law.

Furthermore, the application does not indicate whether or not an exam will be required to be licensed. All Hawaii producers are required to pass a comprehensive Property & Casualty exam in order to advise coverage & sell insurance.

SSA: Limited lines producers do not have to complete an examination. The employees and authorized representatives complete training.

IV. Training:

Training is to be provided, but no check and balance that an individual has completed the training.

SSA: Again, the Insurance Commissioner may sanction an owner that violates the law.

V. Licensing Fee:

\$2.00 for a new license and \$1.00 for a renewal, however the cost for a Hawaii producer's license is \$100.00 every two years.

SSA: We are not looking for special treatment. The fee should be the same as the Hawaii producer's license fee.

We believe the bill's intent is to have self-service facilities offer property insurance for personal property in self-service storage facilities for individuals who are otherwise uninsured, which we are in agreement of in theory & with revisions.

It's our understanding that 31 other states have adopted similar statutes to resolve this issue. It would be our recommendation to assimilate our bill to match other states.

SSA: It does. Additionally, the bill closely tracks Hawaii's portable electronics licensing law. [*See, HRS § 431:31-101, et seq.*]

SB 817 is a blend of Hawaii's structure for the sale of portable electronics insurance as set forth in HRS § 431:31-101, et. seq., the disclosure provisions of New York and Oregon, and the return of premium provision of the New York law. Also included are placeholder amounts for the license fees (initial and renewal).



HIIA

Hawaii Independent Insurance Agents Association

Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice Chair
Committee on Finance

LATE

RE: **SB 817 SD2 HD1 – Relating to Self-Service Storage – In Opposition**
March 27, 2019; 2:00 p.m.; Conference room 308; Agenda #1

Aloha Chair Luke, Vice Chair Cullen and members of the committee,

Hawaii Independent Insurance Agents Association appreciates the opportunity to express concerns on SB 817 SD2 HD1.

I. Insurance Policy:

The bill states a brochure or electronic material will be provided, but it does not indicate whether or not the “occupant” that purchased the coverage will ever receive a policy or other document which actually evidences coverage, terms, conditions and exclusions.

II. Fiduciary Responsibility:

The bill states that any “premium” collected will not be required to be put in a segregated account, but Hawaii agencies are required to maintain a separate account for client premiums.

III. Producer Licensing:

The bill currently states that the “owner” would hold a limited lines (producers) license to sell, solicit or offer coverage, but the “owner” could be a non-resident on the mainland and give a “blanket” authorization for employees and authorized representatives here to act on their behalf.

Furthermore, the application does not indicate whether or not an exam will be required to be licensed. All Hawaii producers are required to pass a comprehensive Property & Casualty exam in order to advise coverage & sell insurance.

IV. Training:

Training is to be provided, but **no check and balance that an individual has completed the training.**

V. Licensing Fee:

\$2.00 for a new license and \$1.00 for a renewal, however the cost for a Hawaii producer’s license is \$100.00 every two years.

For these reasons, we respectfully ask the committee to defer this measure.