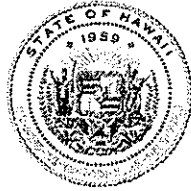


HB2354



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
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

RONALD BOYER
ACTING DIRECTOR

RODNEY A. MAILE
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Friday, March 12, 2010
9:30 a.m.

TESTIMONY ON HOUSE BILL NO. 2354 H.D. 1 - RELATING TO INSURANCE FRAUD

TO THE HONORABLE ROSALYN H. BAKER AND MEMBERS OF THE COMMITTEE:

My name is J. P. Schmidt, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). Thank you for hearing this bill.

The Department supports this bill. This bill is patterned after Section 9 of the National Conference of Insurance Legislators ("NCOIL") Insurance Fraud Model Act.

This bill enhances the Department's ability to investigate insurance fraud by preventing individuals from failing to cooperate with the Department's investigations. In addition, the bill contains an enforcement provision that precludes individuals who do not cooperate with the Department's investigations and prosecutions from collecting proceeds or restitution.

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

**TESTIMONY OF ROBERT TOYOFUKU
ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ)
formerly known as the CONSUMER LAWYERS OF HAWAII (CLH)
IN OPPOSITION TO H.B. NO. 2354 HD1**

March 12, 2010

To: Chair Rosalyn H. Baker and Members of the Senate Committee on Commerce and Consumer Protection:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to H.B. No. 2354 HD1 as currently drafted.

HAJ supports the purpose and intent of this measure to strengthen existing insurance fraud provisions. HAJ notes that there is an inconsistency between this measure and existing law with respect to immunity for furnishing or disclosing information regarding suspected insurance fraud. Existing law does not provide immunity to any person who falsely accuses another of insurance fraud when such action is motivated by malice or constitutes perjury. See subsection (d) of the existing insurance fraud provision of the insurance code (HRS section 431:10A-131; “A person, *if acting without malice . . . , except if the person commits perjury.*”).

This inconsistency can be easily corrected by adding the following sentence to the end of subsection (d): “; provided that the person was acting without malice and did not commit perjury in furnishing or disclosing information.”

This limitation on immunity serves to deter the intentional abuse of the insurance fraud process and protect innocent citizens from false claims.

Thank you for the opportunity to testify.

AMERICAN COUNCIL OF LIFE INSURERS
TESTIMONY IN SUPPORT OF HB 2354, HD 1,
RELATING TO INSURANCE FRAUD

March 11, 2010

Via E Mail: cpntestimony@capitol.hawaii.gov
Hon. Senator Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
Hawaii State Capital, Conference Room 229
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Baker and Committee Members:

Thank you for the opportunity to testify in support of HB 2354, HD 1, relating to insurance fraud.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States account for over 90% of the assets and premiums of the U.S. life insurance and annuity industry. ACLI member company assets account for 93% of the life insurance premiums and 98% of the annuity considerations paid in the State of Hawaii. Two hundred thirty-six (236) ACLI member companies currently do business in the State of Hawaii.

Insurance fraud is costly to both the insurance industry and consumers alike.

The stated purpose of the bill is to strengthen existing laws so as to prevent insurance fraud.

The bill does so by requiring those having "a reasonable belief" that insurance fraud is or will be committed to furnish and disclose any information they may have pertaining to the fraud to the Insurance Division; when requested, require those having such information to "take all reasonable actions to provide the information requested"; and barring restitution to those failing to cooperate with the Division.

Accordingly, ACLI supports HB 2354, HD 1, and requests that the measure be passed by this Committee.

Again, thank you for the opportunity to testify in support of this bill.

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, A Law Corporation

By 
OREN T. CHIKAMOTO
otc@charhamilton.com

**SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

March 12, 2010

HB 2354, HD 1 Relating to Insurance Fraud

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm supports House Bill 2354, HD 1 Relating to Insurance Fraud. House Bill 2354, HD 1 proposes to strengthen the insurance fraud laws by requiring individuals, entities, and insurers to cooperate with insurance fraud investigations.

Thank you for the opportunity to present this testimony.