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TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Wednesday, March 16, 2011
2 p.m.

TESTIMONY ON SENATE BILL NO. 1278, S.D. 1 – RELATING TO INSURANCE.

TO THE HONORABLE ROBERT HERKES AND GILBERT KEITH-AGARAN, CHAIRS,
AND MEMBERS OF THE JOINT COMMITTEE:

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

The purpose of this bill is to adopt model regulations of the National Association
of Insurance Commissioners (“NAIC”) in compliance with the senior investor protections
in section 989A of the federal Dodd-Frank Wall Street Reform and Consumer Protection
Act.

The S.D. 1 replaced the definition of “annuity”; delayed the implementation date
for sections 2 and 5-7 to January 1, 2012; and made technical amendments.

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act was
passed to promote financial stability and transparency of the financial system and to
protect consumers from abusive financial services practices.

The Commissioner continues to receive complaints from consumers, particularly seniors, about sales and marketing practices used by insurance producers with respect to annuity products.

Adopting these NAIC model laws will: (1) enhance protection to consumers, including seniors; and (2) enable the Insurance Division to apply for federal grants that propose activities to protect seniors from misleading or fraudulent marketing in the sale of financial products.

Section 5 of the S.D. 2 placed the language in proposed subsection (h) of the original bill into subsection (f), paragraphs (7) and (8) of the S.D. 2. Per subsection (g), an insurer may contract with a third-party for any or all of the functions in subsection (f), including paragraphs (7) and (8). The Department believes that insurers who use third-party contractors must be held accountable for monitoring their contractors to ensure their supervision system complies with statutory requirements. Since the functions in paragraphs (7) and (8) are non-delegable, the Department respectfully requests that subsection (g) on page 17 reads:

(g) An insurer may contract for performance of any functions, including maintenance of procedures, required by subsection (f)(1) to (6); provided that an insurer shall be responsible for taking any appropriate corrective action and may be subject to sanctions and penalties pursuant to section 431:10D-624 regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subsection (f).

Section 7 of the S.D. 2, which prohibits producers from using misleading senior-specific certifications and professional designations, has a delayed effective date per section 10 of the S.D. 2. Since it does not require compliance from insurers, the Department believes that section 7 should be effective on approval, rather than on January 1, 2012. The Department respectfully requests that section 10 of the S.D. 2 be amended to delete section 7 from the list of sections that have a delayed implementation date.

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

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON SB 1278, SD 1, RELATING TO INSURANCE

March 16, 2011

Via e mail: cpctestimony@capitol.hawaii.com

Hon. Representative Robert N. Herkes, Chair
Committee on Consumer Protection and Commerce
-Hon. Representative Gilbert S. C. Keith-Agaran, Chair
Committee on Judiciary
State House of Representatives
Hawaii State Capitol, Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Herkes, Chair Keith-Agaran and Committee Members:

Comments

Thank you for the opportunity to comment on SB 1278, SD 1, relating to Insurance.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association, who represents more than three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies account for 90% of the assets and premiums of the United States Life and annuity industry. ACLI member company assets account for 91% of legal reserve company total assets. Two hundred thirty-nine (239) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 95% of the annuity considerations in this State.

ACLI is in accord with the intent and purposes of SB 1278, SD 1, which is to provide consumer protection, particularly to seniors, from abusive financial services practices by adopting the National Association of Insurance Commissioners ("NAIC") Suitability in Annuity Transactions Model Regulation ("Model Regulation") and to comply with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

The Model Regulation establishes national uniform standards and rules regulating the sales of annuities to consumers.

Generally, ACLI supports insurance provisions that conform to federal law and national standards.

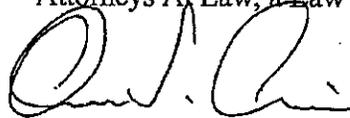
However, SB 1278, SD 1, does not include the reciprocity training provision which is set forth in the Model Regulation. That provision states: "The satisfaction of the training requirements of another State that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this State."

It is important that the Model Regulation be adopted without changes. This will ensure uniform and national regulation of the annuity contract across the country.

Accordingly, ACLI requests that Section 2 of the Bill (at page 3, lines 21 and 22, and at page 4, lines 1 through 8) be amended by substituting the Model Regulation's reciprocity training provision as paragraph (c) in place of the current provisions in that paragraph and that the provisions contained in existing paragraph (c) (at page 3, lines 21 and 22, and at page 4, lines 1 through 8) be inserted following the reciprocity training provisions and that it be renamed as a new paragraph (d).

Again, thank you for the opportunity to comment on SB 1278, SD 1.

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CPCtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2011 4:58 PM
To: CPCtestimony
Cc: NAIFA-Hawaii@hawaii.rr.com
Subject: Testimony for SB1278 on 3/16/2011 2:00:00 PM

Testimony for CPC/JUD 3/16/2011 2:00:00 PM SB1278

Conference room: 325

Testifier position: support

Testifier will be present: Yes

Submitted by: Cynthia Takenaka

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Submitted on: 3/15/2011

Comments: