

STAND. COM. REP. NO.

2147

Honolulu, Hawaii

FEB 14 2012

RE: S.B. No. 2765
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2765 entitled:

"A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES,"

begs leave to report as follows:

The purpose and intent of this measure is to update and streamline Hawaii's captive insurance company law and ensure that risk retention captive insurance companies comply with the accreditation standards of the National Association of Insurance Commissioners.

Your Committee received testimony in support of this measure from the Insurance Division of the Department of Commerce and Consumer Affairs; Hawaii Captive Insurance Council; Artex Risk Solutions, Inc.; Strategic Risk Solutions, Inc.; and Willis Management (Hawaii).

Your Committee finds that Hawaii is a leading captive insurance domicile, nationally and worldwide. Your Committee further finds that the captive insurance market is an important factor in Hawaii's economy. Captive insurance entities contribute premium tax revenue to the State. The formation and maintenance of captive business in Hawaii also generates significant revenue and benefits in the form of general excise, income, and transient accommodations taxes paid by service providers and others who do business with captive insurance companies.



This measure provides greater flexibility in the coverage of captive risks, enables the Insurance Commissioner to better regulate the captive insurance industry, ensures that risk retention captive insurance companies comply with the accreditation standards of the National Association of Insurance Commissioners, and promotes clarity and consistency throughout the captive insurance company law.

Your Committee finds that Hawaii is facing increased competition from other states and off-shore captive domiciles for captive insurance company business. It is critical that Hawaii's captive insurance law maintain an appropriate balance between meaningful yet reasonable regulatory oversight so that the State can maintain its stature as a competitive and preferred captive insurance domicile.

Your Committee understands that this measure contains some potential issues that may adversely affect the continued growth and prudent development of the State's captive insurance industry if not properly resolved. Your Committee notes that the Department of Commerce and Consumer Affairs and the Hawaii Captive Insurance Council have been engaged in discussions regarding these issues. Both parties agree that discussion should continue to ensure that Hawaii remains a preferred domicile in the increasingly competitive captive insurance marketplace.

Your Committee has amended this measure by:

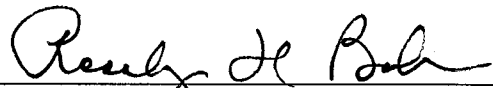
- (1) Clarifying that a captive insurance company who writes direct workers' compensation insurance policies pursuant to chapter 386, Hawaii Revised Statutes, may be subject to article 15 of chapter 431, Hawaii Revised Statutes, if the captive insurance company is deemed insolvent;
- (2) Amending the definition of "controlled unaffiliated business" by removing the reference to "other direct or indirect relationship";
- (3) Amending the definition of "association" in section 431:19-101, Hawaii Revised Statutes, to mean two or more similarly placed members;
- (4) Repealing the exemption for the filing of risk-based capital reports by class 3 association captive insurance companies;



- (5) Specifying that the Insurance Commissioner may impose a fine of not less than \$100 nor more than \$10,000 per violation for certain violations;
- (6) Specifying requirements for notice by the Insurance Commissioner to captive insurance companies when the Insurance Commission suspends or revokes a certificate of authority or imposes a fine;
- (7) Inserting an effective date of July 1, 2050, to allow for further discussion; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2765, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2765, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:
SB 2765	CPN, WAM	2-9-12
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
BAKER, Rosalyn H. (C)	✓	
TANIGUCHI, Brian T. (VC)	✓	
GALUTERIA, Brickwood	✓	
GREEN, M.D., Josh	✓	
NISHIHARA, Clarence K.	✓	
SOLOMON, Malama	✓	
SLOM, Sam	✓	
TOTAL	7	0
0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy		

*Only one measure per Record of Votes