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TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Wednesday, February 17, 2016
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1991, Proposed H.D. 1 – RELATING TO
INSURANCE.**

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of
the Department of Commerce and Consumer Affairs (“Department”).

The purpose of this bill is to establish optional health savings account programs
for employees who are part of, or will be part of, their respective employers’ group
policies. The Department submits the following comments.

Currently, high deductible health insurance policies associated with tax-preferred
savings accounts are available in the market. These accounts are not all the same and
vary by their purposes and how they are set up but essentially operate in the same
manner: by having monies in savings accounts available to policyholders to pay for their
out-of-pocket health care costs.

The Department supports the intent of having employers offering their employees
opportunities to choose health savings account programs as alternatives to being part of
group policies. We understand that employees’ lifestyles may dictate better matches

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with health savings account programs rather than enrolling in group plans, and the Department encourages policyholders becoming better familiarized with their healthcare needs and coverages.

We note that this bill requires employers contribute the entire annual amount to employees' health savings accounts prior to the first day of employees being covered and that unused funds in the accounts become the property of the respective employees at the end of the taxable year. Because of the fluidity of members in Hawai'i's workforce, situations may arise where employees' health savings accounts are filled at the beginning by employers only to see these same employees move on to other work opportunities before the year's conclusion. This potential situation, of employers not realizing the full value of their expended costs, may cause employers to rethink their offering of these health savings accounts to their employees.

We thank this Committee for the opportunity to present testimony on this matter.



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TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department is providing the following comments.

This proposed bill may restrict insurers’ use of in-house claim adjusters in favor of promoting the use of third-party claim adjusters, paid for by insurers. The claim adjusters are proposed to be allowed to make binding settlement offers for claimants’ considerations without insurers’ approvals.

These proposals appear to redefine the current manner and process in which insurers are able to adjust and make payments on claims.

We thank this Committee for the opportunity to present testimony on this matter.

Hawaii State Legislature
House Committee on Consumer Protection and Commerce
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 15, 2016

Filed via electronic testimony submission system

NAMIC's Position:

**HB 1991, Homeowners' Insurance claims adjusting - Opposed
Proposed HB 1991, HD-1, Health Savings Account – No position**

Dear Representative Angus L.K. McKelvey, Chair; Representative Justin H. Woodson, Vice Chair; and honorable members of the House Committee on Consumer Protection and Commerce:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 17, 2016, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,300 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$208 billion in annual premiums, accounting for 48 percent of the automobile/homeowners market and 33 percent of the business insurance market. NAMIC has 69 members who write property/casualty and workers' compensation insurance in the State of Hawaii, which represents 30% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC's written testimony pertains only to the current draft of the bill, HB 1991, which pertains to homeowners' insurance claims adjusting. NAMIC is opposed to HB 1991, because it will: 1) needless increase claims adjusting costs which could adversely impact affordability of homeowners' insurance; 2) make the claims adjusting process unnecessarily contentious; and 3) delay the timely settlement of insurance claims to the detriment of policyholders.

To start with, NAMIC is concerned that the proposed legislation would effectuate a radical departure from the well-established practice of having insurance claims adjusted by the insurer, with any

disagreements as to insurance coverage, causation, and damages being handled, after the selection of the adjuster by the insurer. and the initial processing and adjusting of the claim. This process has worked to the benefit of insurance policyholders, because the vast majority of insurance claims are timely settled to the satisfaction of the policyholder. The proposed requirement that the homeowner's insurance adjuster be selected by mutual agreement of the insurer and policyholder is unnecessary and is premised upon the unfounded supposition that the claims adjusting process is inevitably and unavoidably contentious from the start. The evidence clearly does *not* support such a belief. The number of consumer complaints filed annually with the Division of Insurance is infinitesimal in comparison to the number of claims filed by policyholders with their homeowners' insurance carrier and settled by the insurer in a fast, fair and friendly manner.

NAMIC is also concerned that the proposed requirement that disagreements over the selection of the adjuster be submitted to the commissioner, arbitration, or the circuit court for resolution is likely to delay the timely settlement of insurance claims to the detriment of policyholders and may lead to additional damages to the insured's residence as a result of the parties getting "bogged down" in a dispute over the selection of the adjuster.

Moreover, the proposed requirement is ambiguous in that it doesn't specify who determines whether the claims adjuster selection dispute is decided by the commissioner, an arbiter, or a circuit court judge. The proposed requirement also doesn't address the legal standard of review to be used by the professional resolving the adjuster selection dispute, or the appeals process for challenging the ruling of the commissioner, arbiter, or circuit court judge. NAMIC is concerned that this provision is going to needlessly increase claims and litigation costs for *both* parties to the detriment of everyone involved in the process.

Finally, NAMIC is concerned that the provision pertaining to the "settlement offer" fails to take into consideration that contract law requires that a settlement offer be accepted by the parties (policyholder and insurer). The language of this provision arguably creates a duty on the insurer to pay the settlement offer as ordered by the mutually selected claims adjuster, when said claims adjusting process is not a legally binding adjudication of the claim. Both the policyholder and insurer should have the right to challenge the adjuster's evaluation of the claim and calculation of damages.

For the aforementioned reasons, NAMIC respectfully requests that the committee VOTE NO on HB 1991, as the bill is currently drafted. NAMIC has no position on HB 1991, HD-1, Health Savings Accounts.

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 Director – State Affairs, Western Region

**HOUSE COMMITTEE
ON
CONSUMER PROTECTION AND COMMERCE**

February 16, 2016

House Bill 1991 Relating to Insurance

Chair McKelvey, Vice Chair Woodson, and 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 the following comments about House Bill 1991 Relating to Insurance. State Farm opposes this measure. The bill appears to attempt to bring unneeded structure into the claims handling process, and would treat all homeowners' claims the same, regardless of the nature of the claim.

A homeowners' policy provides many different kinds of coverages for varying risks of loss. They provide fire protection for the structure and the contents; vandalism and theft protection; hurricane coverage; limited medical coverage; and liability coverage. Regardless of the nature and size, this bill would have them all handled the same, vastly increasing the complexity and cost for resolving the majority claims.

What the bill appears to be doing is moving the appraisal process, which is normally invoked by either the policyholder or the insurer only if the claim has reached an impasse, and makes that the mandatory method for handling all claims. This will make claims handling more complicated for both the insured and the insurer, and increase the cost of handling all claims, which will result in higher insurance premiums. This bill is unnecessary, and State Farm requests that the Committee hold this measure.

Thank you for the opportunity to present this testimony.