

**ELECTRONIC INSURANCE NOTICES AND DOCUMENTS WORKING GROUP
MINUTES OF OCTOBER 14, 2013 MEETING
KING KALAKAUA BUILDING
QUEEN KAPIOLANI CONFERENCE ROOM**

Present: Martha Im, Insurance Division; Gordon Ito, Insurance Commissioner; Isaac Kosasa, Hawaii Insurers Council (HIC); Ann Le Lievre, Insurance Division; Lori Lum, Watanabe Ing LLP, representing Property Casualty Insurers Association of America (PCI); Alison Powers, Hawaii Insurers Council; Bob Toyofuku, Commission to Promote Uniform Legislation; Tiffany Yajima, Ashford & Wriston LLP.

Conference Call Participants: Alex Hageli, PCI; Robert Joslin, Hawaii Public Adjusters; Bob Nash, State Farm Insurance Companies (State Farm); David Leifer, American Council of Life Insurers (ACLI); Mark Sektnan, PCI; Joann Waiters, (ACLI).

1. Call to order; public notice

Insurance Commissioner Gordon Ito called the meeting to order at 10:04 a.m. Public notice for this meeting was timely filed with the Lieutenant Governor's office on September 25, 2013.

Commissioner Ito opened the meeting by thanking members and participants for attending the meeting, and also reminded members that the Working Group is following the Sunshine Law. Discussion among members should occur in open hearing.

2. Approval of minutes of September 16, 2013 meeting

A draft of the minutes of the September 16, 2013 meeting was previously circulated to members for their review.

Bob Toyofuku stated a correction was needed on Page 9, first paragraph, second line: delete "it is a bad idea" and insert "it is not necessarily a good idea for consumers".

Allison Powers moved, and Bob Toyofuku seconded, to approve the minutes of the September 16, 2013 meeting as amended. The motion passed unanimously.

3. Report to the Legislature

A draft report was circulated to all Working Group representatives and participants prior to today's meeting. Bob Toyofuku pointed to a technical inaccuracy in the draft report on page 6, section V, first line, that there are no participants in the Working Group that represent a formal recognized consumer group. While there were comments from Bob Toyofuku and Robert Joslin during the last meeting that could be interpreted to present consumer interests, this sentence in the draft report should be modified to reflect there were comments made sharing consumer concerns. Bob Toyofuku will submit suggested language to Martha Im.

Mark Sektan stated on page 2, section I, that the Model Law has in fact been advocated by several insurance trade organizations. Alison Powers shared that three (3) national insurance trade associations have adopted the Model Law: National Association of Insurance Companies ("NAIC"), Property Casualty Insurers Association of America ("PCI"), and American Insurance Association ("AIA").

In response to a query whether the listing of affected provisions in the Insurance Code on pages 9 to 10 is exhaustive, it was stated this was only a partial list of provisions that would require revision if electronic transactions for insurance documents and notices were to be approved by the legislature.

After discussion regarding changes to the draft report and possible suggested language, Commissioner Ito requested that suggested language changes to the draft report be submitted to Martha Im by Friday, October 25, 2013. A draft report with line numbers on each page will be circulated to all representatives and participants for ease of reference when submitting any changes.

a. Commission to Promote Uniform Legislation

The draft report was silent as to any position by the Commission to Promote Uniform Legislation ("Commission") as these commissioners had not met at the time the draft report was written.

The Commission met on October 7, 2013 in response to a request by Commissioner Ito during a previous Working Group meeting as to the position of the Commission regarding use of electronic insurance notices and documents. Bob Toyofuku provided a report regarding the October 7, 2013 meeting of the Hawaii Commission. The Hawaii Commission, following sunshine law, held a formally noticed meeting with five (5) Commissioners, two (2) life members, and one (1) Department of the Attorney General Associate member present.

Two (2) questions were posed to the Commission: 1) should the law be written to allow consumers to opt-in, thereby selecting to obtain information electronically, or opt-out, in which case consumers would select to receive

certain documents in paper format; and 2) should there be any new law that allows for cancellation, termination, lapse, or material alteration of a contract of insurance, insurance benefits, life settlement or viatical settlement agreement, or service contract by electronic means, regardless of consumers opting-in or opting-out to have these types of notices sent to them electronically.

In response to the first question, the Hawaii Commissioners unanimously voted that if a proposed law were submitted to the legislature for electronic notices and documents, such law should be drafted where a consumer would opt-in to receive those notices and documents in electronic format.

In response to the second question, the Hawaii Commissioners voted that any law should not allow for the cancellation, termination, lapse, or material alteration of a contract of insurance, insurance benefits, life settlement or viatical settlement agreement, or service contract by electronic means, even if the consumer opts-in to have electronic notices and documents.

The general discussion by the Hawaii Commissioners focused on several considerations for electronic notices and documents, including: policies posted on insurers' websites should be in easily read font and type; a summary of the posted policy should be received in hard copy by the consumer; a required response from the insured that they received the electronic transmission; how will companies address foreign languages in electronic versions; and is there a need for UETA to be amended?

In response to a question regarding the role of the Commission in this Working Group, the Working Group was reminded that Commissioner Ito had specifically requested the opinion of the Hawaii Commission in a previous meeting, and further, that SCR 159 specified that the Hawaii Commission was a named representative to the Working Group and as such, entitled to state a position, as the other named industry representatives have done.

Bob Toyofuku stated he will be in Chicago next week at a National Conference of Commissioners on Uniform State Laws. He will speak with the Chicago staff regarding electronic insurance notices and documents, as well as seek the chair of the original UETA drafting group and ask for her input as to insurance documents and notices, specifically as to opt-in or opt-out options for the consumer, and electronic delivery of cancellation and termination notices.

Bob Toyofuku stated that the Hawaii Commissioners were not against use of electronic insurance notices and documents. The Hawaii Commissioners were in support of electronic transmissions for certain insurance notices and documents, provided that the specific insurance prohibitions enumerated in Hawaii's UETA, Hawaii Revised Statutes ("HRS") section 489E-3(b)(3)(C) remain intact.

A comment was made to the Working Group that the Report to the Legislature should include a clear statement that insurers are currently allowed to transmit certain electronic insurance documents.

b. Recommendations

After much discussion regarding proposed recommendations, Commissioner Ito asked that Working Group representatives and participants submit any written recommendations to Martha Im by Friday, October 25, 2013. Martha will include the recommendations in the draft report and circulate in advance of the next meeting for discussion by the Working Group.

4. Submission of testimony by interested parties and members of the public

Interested parties and members of the public may submit testimony to the Working Group by: mail (335 Merchant St #213, Honolulu, HI 96813), fax (808-586-2806), or email (ins@dcca.hawaii.gov).

5. Next meeting

The next meeting is scheduled for Monday, November 4, 2013 at 9 a.m. Hawaii time.

6. Adjournment

The meeting was adjourned at 11:01 a.m.