

To: The Honorable Clarence K. Nishihara, Chair  
The Honorable Will Espero, Vice Chair  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

The Honorable Rosalyn H. Baker, Chair  
The Honorable Michelle N. Kidani, Vice Chair  
Senate Committee on Commerce, Consumer Protection, and Health

From: Christian Rataj, NAMIC  
Mark Sektnan, PCI  
Steve Suchil, AIA

Re: **SB 2347 – Drone Regulation**  
**Position: Request to amend or defer**

Date: Thursday, February 11, 2016  
8:30 a.m., Room 229

Aloha Chair Nishihara and Baker and Members of the Committees:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC), the Property Casualty Insurers Association of America (PCI), and the American Insurance Association (AIA) an opportunity to submit written testimony to your committee for the February 11, 2016, public hearing.

NAMIC, PCI, and AIA (hereinafter "trades") are the largest property/casualty insurance trade associations in the country, serving regional and local insurers, who represent a significant number of policyholders in the Hawaii insurance marketplace.

Unmanned aerial vehicles ("UAV", also known as "UAS" or "drones") represent a new technology with many positive public welfare and consumer services applications for the insurance industry, business community, and governmental entities. The trades appreciate the importance of regulating the lawful use of commercial and recreational drones, so as to promote public safety and responsible UAV use. Commercial operations of UAV, including operations for research and development purposes, are currently prohibited under Federal law without specific FAA approval. In order to use UAV for commercial purposes, a company needs to file a petition with and receive approval from the FAA. A number of insurance companies have received federal permission to use UAV for roof inspections, and research and development purposes, including catastrophe scene surveys.

The trades respectfully recommend that the proposed legislation be tabled until next legislative session, because pending Federal Aviation Regulations have yet to be finalized and may end up being in conflict with the proposed state legislation. Moreover, since federal drone law and regulations are evolving in numerous and overlapping arenas - Congress, Commerce Department, FAA, DHS, FTC, FCC, and NTIA, effective state legislative initiatives will require a more clear understanding of both the present and developing legal jurisdictional issues, and a better understanding of the legal relationship between state

and federal law on the regulation of UAV. Conflicting and confusing legislation and regulations at multiple levels of government will adversely impede the development of a uniform body of laws on responsible drone use.

If the State Legislature of Hawaii is unwilling to wait until federal legislation and regulations are fully vetted and implemented, the trades respectfully urge policymakers to consider the following issues pertaining to the legitimate and pro-consumer use of UAV by insurance companies when implementing UAV legislation and regulations:

- The insurance industry wants to use this technology during disasters to help them resolve claims in a fast and efficient manner that promotes public safety. UAV technology presents a new tool to disaster claims management; i.e. a tool that can safely and efficiently survey property damage to help policyholders more quickly recover after the disaster without interfering with the recovery efforts of first responders or posing a safety risk to insurance professionals and policyholders created by having to access potentially dangerous disaster areas to investigate claims. Policymakers should take steps to ensure that insurance companies helping communities recover, after a disaster, have the ability to appropriately use UAV to assist their policyholders.
- UAS technology has important insurance underwriting, and fraud prevention and prosecution capabilities. The trades respectfully urge policymakers to permit insurance companies to use UAV for insurance activities that are permitted pursuant to the insurance policy and consistent with state and federal law. Insurers are diligently committed to being efficient and cost-effective in facilitating their insurance services for the benefit of their insurance consumers. The use of UAV is beneficial to insurance consumers, because insurers will be able to conduct a more thorough assessment of a consumer's personal risk of loss exposure so that the insurer can more accurately match risk to insurance rate. Further, insurers will be able to use drones to fight insurance fraud that costs consumers (non-health insurance consumer) an estimated \$40 billion per year, which translates to \$400 and \$700 per year per family in the form of increased premiums. (FBI statistic).

The trades appreciate the social and legal importance of protecting reasonable privacy rights, and support prohibitions against improper infringement upon a consumer's reasonable expectation of privacy. In fact, the trades and several of their insurance company members participated in the National Telecommunications and Information Administration (NTIA) working group to develop best practices for privacy, accountability, and transparency issues regarding commercial and private use of UAV.

Since the insuring agreement specifically and expressly authorizes the insurer to engage in necessary underwriting and claims adjusting activities, and the consumer, pursuant to the terms of the contractual relationship, has authorized the insurer to look at and evaluate the external condition of the policyholder's home for homeowner's insurance and motor vehicle for auto insurance coverage, the trades believe that the proposed legislation should clearly state that UAV may be used to address these insuring agreement rights and responsibilities.

Consequently, the trades specifically recommend the following provision in SB 2347 be amended:

**Section 1 -5 Business exceptions.** Nothing in this chapter shall prohibit the use of an unmanned aerial vehicle by a business or professional licensed in this State, or by an agent, employee, or contractor

thereof, if the unmanned aerial vehicle is used only to perform reasonable tasks within the scope of practice or activities permitted under the business or professional license, including but not limited to:

**Proposed amendment:** Nothing in this section shall preclude a person or entity from utilizing a UAV for insurance purposes including underwriting, claims investigation, fraud investigation, or other commercial activity as provided in an insurance contract.

In closing, NAMIC, PCI, and AIA recommend that the Hawaii State Legislature wait to enact legislation until the Federal Aviation Administration (FAA) finalizes its rules, and until the National Telecommunications and Information Administration (NTIA) develops its regulatory guidelines. The FAA rules should be finalized in 2016, and since they may preempt certain provisions in state law addressing UAS operations and safety issues, it makes sense to postpone SB 2347 until next session. However, if the State Legislature feels compelled to pass legislation this session, the trades respectfully request that SB 2347 expressly allow for appropriate use of UAV for reasonable, pro-insurance consumer activities that are consistent with the terms of the insuring agreement or in furtherance of the public policy objective of studying how to better assess insurance risk of loss exposure, like the prevention and mitigation of wildfires.

Thank you for your time and consideration. Please feel free to contact us. Christian John Rataj (NAMIC) at 303-907-0587, Mark Sektnan (PCI) at 916-449-1370 and Steve Suchil (AIA) at 916-442-7617.