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PRESS STATEMENT
FOR IMMEDIATE RELEASE

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Auto Insurers Investigated for Alleged Violations

HONOLULU – September 8, 2001 – Insurance Commissioner Wayne Metcalf today announced the initial findings by the State Insurance Division’s three-week investigation into alleged violations by Hawaii’s auto insurers.

“Hawaii has a clear and strict law prohibiting auto insurers from using discriminatory criteria when determining a person’s auto policy premium,” said Metcalf. “Under the law, insurers cannot base any part of a person’s premium on account of his or her race, creed, ethnic extraction, age, sex, length of driving experience, credit bureau rating, marital status, or physical handicap. I am surprised and disappointed that some insurers are violating this law. Last year, Judge Eden Hifo affirmed the applicability of the anti-discrimination law in a case where Allstate Insurance Company was using a person’s length of driving experience when charging premiums.”

On April 20, 2000, Judge Hifo affirmed an Insurance Commissioner’s Final Order in Allstate v. Metcalf, Civil No. 99-4226, which ordered Allstate to cease using a person’s length of driving experience in its premium calculations. Allstate appealed the Commissioner’s Order to the Circuit Court. Judge Hifo ruled that the Commissioner had

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correctly applied the law. Metcalf said, "Although Allstate has appealed Judge Hifo's decision, the court's ruling continues to be the law unless overturned on appeal. And Allstate continues to violate the law."

"Allstate has also violated the law's provision that prohibits the use of credit rating in setting premiums," Metcalf said. "This anti-discrimination law was enacted by the Legislature to ensure that a person's premium would be determined solely by that person's driving record and not by factors which are irrelevant to that person's driving ability regardless of what generalizations can be drawn from a particular class. Hawaii was the first state which enacted a prohibition against the use of these discriminatory factors," he observed. "Today, other state legislatures are considering legislation similar to the Hawaii's longstanding law to safeguard their citizens."

The Division's initial finding on insurers' violations of this law were based on insurers responses to the Division's August 13, 2001, inquiry and a subsequent onsite audit of selected insurers. The inquiry was based on a report that State Farm owned insurance companies were using credit bureau information as a factor in their determination of policyholders' premiums.

"Credit reports often contain erroneous information," noted Metcalf. "However, few consumers regularly check on their credit histories or ever see their reports unless they are making a major financial transaction like purchasing a home or condo. I think that it is fair to say that most Hawaii consumers would be startled to find that their credit rating reports were used without their knowledge in determining their ability to pay for their auto insurance coverages."

One hundred and thirteen insurers responded to the Division's inquiry by the August 24, 2001 deadline with another 37 responses arriving late. In this group of 150, the vast majority stated that they were in compliant with Hawaii's law. However, onsite audits showed that several insurers used various prohibited criteria in charging

premiums for their customers. DTRIC used marital status and AIG Hawaii used age as factors in determining premiums. Both companies have subsequently agreed to cease the use of these criteria in their analyses.

“I am pleased that these insurers have agreed to comply with the law,” continued Metcalf. “This is similar to the State Farm Insurance Companies agreeing to stop their use of credit bureau information in their calculating of policies’ premiums. Hawaii’s law does not allow this and the Insurance Division will not permit this.”

Not all insurers actively writing business in Hawaii, however, responded to the Commissioner’s inquiry.

“By law,” noted Metcalf, “insurers are mandated to assist all state insurance departments with their investigations. Included in this group of nonresponsive insurers are active insurers like Hartford Underwriters Insurance Company with 38,000+ policies and RLI Insurance Company with almost 2,000 policies. There is no acceptable excuse for these companies being nonresponsive.”

Metcalf said that the Division will continue its investigation into insurer practices in this area and that further action could include follow up letters demanding compliance from the nonresponsive insurers, fines against those insurers who were found to be in violation of the law, and fines against those insurers who did not respond.

“It is our purpose to see that all insurers immediately recognize and abide by Hawaii’s law prohibiting the use of these discriminatory criteria,” concluded Metcalf. “The law is clear and so will be the Division’s enforcement of it.”

The Hawaii Insurance Division oversees the insurance industry in Hawaii; issues licenses; examines the fiscal condition of Hawaii-based companies; reviews rate and

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policy filings; and investigates insurance related complaints and prosecutes motor vehicle insurance fraud cases.

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