

---

---

# HOUSE CONCURRENT RESOLUTION

REQUESTING THE INSURANCE COMMISSIONER TO CONVENE A WORKING GROUP TO EXPLORE THE USE OF ELECTRONIC TRANSMISSION OF INSURANCE NOTICES AND DOCUMENTS AND THE POTENTIAL INCREASE TO HAWAII'S MINIMUM LIABILITY COVERAGE FOR MOTOR VEHICLE INSURANCE.

1           WHEREAS, Hawaii has adopted the model Uniform Electronic  
2 Transactions Act, codified as chapter 489E, Hawaii Revised  
3 Statutes; and

4  
5           WHEREAS, chapter 489E, Hawaii Revised Statutes, excludes  
6 insurance documents and notices from its purview; and

7  
8           WHEREAS, insurance notices and documents are currently  
9 required to be in writing; and

10  
11           WHEREAS, although consumers have indicated a preference to  
12 obtain notices and documents by electronic means, there are  
13 certain questions as to the appropriate use and application of  
14 electronic notices and documents; and

15  
16           WHEREAS, the insurance industry, like other industries, is  
17 engaged in more online and internet-based sales and  
18 notifications; and

19  
20           WHEREAS, because the insurance marketplace is in the  
21 process of this change, the State is interested in exploring the  
22 appropriate balance between consumer convenience and consumer  
23 protection; and

24  
25           WHEREAS, another aspect of the insurance industry that  
26 needs to be explored relates to increasing the minimum liability  
27 coverage of motor vehicle insurance; and

28



1           WHEREAS, since 1997, the minimum insurance requirement for  
2 bodily injury liability has been \$20,000 per person with an  
3 aggregate limit of \$40,000 per accident; and  
4

5           WHEREAS, Hawaii is one of only fifteen states that require  
6 a minimum liability coverage of \$20,000 or less; and  
7

8           WHEREAS, Hawaii has been the nation's most profitable  
9 automobile insurance market for over fifteen years; and  
10

11           WHEREAS, an increase in Hawaii's minimum liability coverage  
12 for motor vehicle insurance may be appropriate to provide  
13 appropriate levels of benefits for individuals killed or injured  
14 in traffic accidents; and  
15

16           WHEREAS, there is concern that the increase in minimum  
17 liability coverage may result in higher insurance premiums,  
18 higher numbers of uninsured drivers, and other unintended  
19 consequences; and  
20

21           WHEREAS, potential issues related to the use of electronic  
22 transmission of insurance notices and documents and an increase  
23 in Hawaii's minimum liability coverage for motor vehicle  
24 insurance should be explored; now, therefore,  
25

26           BE IT RESOLVED by the House of Representatives of the  
27 Twenty-seventh Legislature of the State of Hawaii, Regular  
28 Session of 2013, the Senate concurring, that the Insurance  
29 Commissioner is requested to convene a working group to explore  
30 the use of electronic transmission of insurance notices and  
31 documents and the potential increase to Hawaii's minimum  
32 liability coverage for motor vehicle insurance; and  
33

34           BE IT FURTHER RESOLVED that the working group be composed  
35 of the Insurance Commissioner and representatives from the  
36 Commission to Promote Uniform Legislation, Property Casualty  
37 Insurers Association of America, Hawaii Insurers Council, and  
38 State Farm Insurance Company; and  
39

40           BE IT FURTHER RESOLVED that the working group is also  
41 requested to:  
42



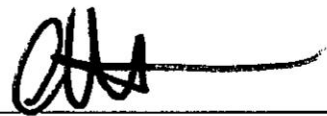
- 1 (1) Develop alternatives for insurance notices and
- 2 documents that balance the convenience of electronic
- 3 notices and documents with consumer protection; and
- 4
- 5 (2) Consider any corresponding reforms that may be
- 6 necessary to offset an increase in premiums that may
- 7 result from the increase in minimum liability coverage
- 8 of motor vehicle insurance; and
- 9

10 BE IT FURTHER RESOLVED that the representatives on the  
 11 working group not be considered state employees based solely  
 12 upon their participation in the working group; and

13  
 14 BE IT FURTHER RESOLVED that the working group is requested  
 15 to submit a final report of the working group's findings and  
 16 recommendations, including any proposed legislation, to the  
 17 Legislature no later than twenty days prior to the convening of  
 18 the Regular Session of 2014; and

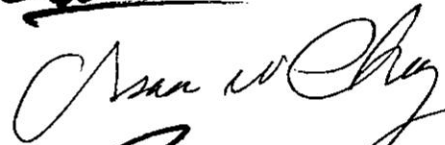
19  
 20 BE IT FURTHER RESOLVED that certified copies of this  
 21 Concurrent Resolution be transmitted to the Insurance  
 22 Commissioner, Commission to Promote Uniform Legislation,  
 23 Property Casualty Insurers Association of America, Hawaii  
 24 Insurers Council, and State Farm Insurance Company.

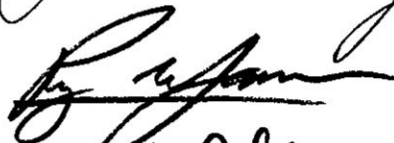
25  
 26  
 27

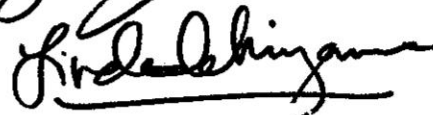
OFFERED BY: 















NEIL ABERCROMBIE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

KEALI' I S. LOPEZ  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON TRANSPORTATION

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2013

Monday, March 25, 2013  
11:15 a.m.

**TESTIMONY ON HOUSE CONCURRENT RESOLUTION NO. 137 AND HOUSE RESOLUTION NO. 107 – REQUESTING THE INSURANCE COMMISSIONER TO CONVENE A WORKING GROUP TO EXPLORE THE USE OF ELECTRONIC TRANSMISSION OF INSURANCE NOTICES AND DOCUMENTS AND THE POTENTIAL INCREASE TO HAWAII'S MINIMUM LIABILITY COVERAGE FOR MOTOR VEHICLE INSURANCE.**

TO THE HONORABLE RYAN I. YAMANE, CHAIR, AND MEMBERS OF THE COMMITTEE:

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

The purpose of these resolutions is to convene a working group that will report its findings and recommendations, including any proposed legislation, for: (1) the use of electronic transmission of insurance notices and documents; and (2) the potential increase to Hawaii's minimum liability coverage for motor vehicle insurance.

The Department is willing to convene this working group. The Department notes that the working group's findings and proposed resolutions relating to electronic notices and documents will need to consider, among other things, the practices adopted by the National Association of Insurance Commissioners and the Compact that was established by Article 30, HRS chapter 431. Over the past several years, industry and

regulators have sought uniformity in insurance contracts and the working group should endeavor to support this goal.

The effectiveness of a study of increased liability coverage may be limited if no financial resources are provided to retain the services of an actuary. Estimated costs of proposed insurance increases may require an actuary to quantify.

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

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO HCR 137 / HR 107**

Date: Monday, March 25, 2013

Time: 11:15 am

To: Chairman Ryan Yamane and Members of the House Committee on Transportation:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in OPPOSITION to HCR 137 / HR 107.

HAJ appreciates the intent of these resolutions to address important insurance issues affecting the public. As presently drafted, however, the working group consists of two neutral entities (the Insurance Commissioner and the Commission on Uniform Laws), and three insurance industry representatives.

With respect to automobile policy limits, the Commissioner has taken no position and all three proposed insurance representatives have opposed any increase in the limits. It would appear that the outcome would be all but preordained given the composition of the group.

The inclusion of State Farm Insurance Company in the working group raises an unnecessary appearance of favoritism or bias because no other individual insurance company is included. State Farm is certainly a major automobile insurer, but it is not the largest in Hawaii, and is dwarfed by other non-auto insurers such as HMSA (that would be affected by the electronic notice portion of the working group). From a public policy perspective, it may be preferable to allow individual insurers to attend working group sessions, but not single out any particular one for special treatment.

HAI requests that consideration be given to amending the composition of the working group to the following:

1. Insurance Commissioner
2. Commission to Promote Uniform Legislation
3. Richardson School of Law, (Hazel Beh, professor on torts and insurance)
4. Property Casualty Insurers Association of America
5. Hawaii Insurers Council
6. Hawaii Association for Justice

Thank you very much for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.

## TESTIMONY OF ALISON POWERS

---

HOUSE COMMITTEE ON TRANSPORTATION  
Representative Ryan Yamane, Chair  
Representative Linda Ichiyama, Vice Chair

March 25, 2013  
11:15 a.m.

### **HCR 137/HR 107**

Chair Yamane, Vice Chair Ichiyama, and members of the Committee, my name is Alison Powers, Executive Director of the Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HCR 137 and HR 107 because they both request the Insurance Commissioner to convene one working group to address two separate and distinct issues: one being the use of electronic transmission of insurance notices and documents, and the other being a potential increase to Hawaii's minimum bodily injury liability coverage including possible reforms to offset the premium increase.

We do not object to a working group to explore the use of electronic transmission of insurance notices and documents and support the language contained in HCR 112 and HR 83.

We also note that SB 495, SD 2, HD2 contains language for the Insurance Verification Working Group to address the impact of increasing minimum bodily injury liability coverage on the uninsured motorist population. We believe it is the more appropriate working group to address the issue since there may be a direct correlation between an increase in motor vehicle insurance premiums and an increase in uninsured motorists.



Therefore, we ask that these Resolutions be held. Thank you for the opportunity to testify.

## HOUSE COMMITTEE ON TRANSPORTATION

March 25, 2013

### HCR 137/ HR 107 Requesting the Insurance Commissioner to Convene a Working Group to Explore the Use of Electronic Transmission of Insurance Notices and Documents and the Potential Increase to Hawaii's Minimum Liability Coverage for Motor Vehicle Insurance

Chair Yamane and members of the House Committee on Transportation, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm has the following comments.

Hawaii, Idaho, Nevada, and Oregon have all adopted the model Uniform Electronic Transaction Act (UETA), but as noted, those laws include provisions that would subordinate the UETA to other laws that require specific (non-electronic) forms of communication or delivery of documents. This resolution requests the formation of a working group to overcome that aspect of the more general UETA, as to specific insurance related laws.

Increasingly, consumers are showing preferences for electronic access to their records in lieu of receiving paper mailings. While many state insurance laws require certain information or documents to be provided to an insured or other party "in writing," two existing laws confer on electronic records and signatures the same status as paper records and ink signatures, so long as a consumer voluntarily "opts in" to the electronic transaction: the federal Electronic Signatures in Global and National Commerce Act (ESIGN, 15 USC §7001), passed in 2000, and the model Uniform Electronic Transactions Act (UETA). Forty seven states, including Hawaii, have passed laws of similar effect.

ESIGN and UETA both include four basic pillars:

- A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- If a law requires a record to be in writing, an electronic record satisfies the law.
- If a law requires a signature, an electronic signature satisfies the law. UETA §7, ESIGN §7001(a).

Both ESIGN and UETA broadly apply to electronic records and electronic signatures related to transactions, and ESIGN specifically states that its provisions apply to insurance, providing that "it is the specific intent of Congress that this title [I] [the general rule of validity] and title II [provisions relating to transferable records] apply to the business of insurance." ESIGN §7001(i).

While ESIGN and UETA allow electronic delivery for most documents required to be delivered to insurance consumers by law or regulations, UETA includes a provision that has had a chilling effect on electronic delivery if a state law or regulation specifically requires an

alternative method of delivery (“If a law other than this [Act] requires a record... (ii) to be sent, communicated or transmitted by a specific method, ...the record must be sent, communicated or transmitted by the method specified in the other law.” UETA 8(b)(2)). Certain state laws or regulations related to insurance specify written notice which were authored before the advent of electronic communications, and therefore, the obstacles to electronic delivery that they create may be unintentional.

For reasons outlined above, recognizing that many Hawaii residents would prefer to conduct business using electronic communications and should have the opportunity to “opt in” to that means of communications with their insurers, we support this portion of HCR 137/HR 107.

While State Farm supports that portion of the concurrent resolution which addresses electronic notices, and feels the resolution tries to do too much in one resolution and that the topics, electronic notification and financial responsibility limits should be separated into two resolutions.

The topic of increasing bodily injury liability limits has been a topic frequently raised, we suggest that all components of the current automobile insurance coverage also be considered, including the increase in personal injury protection and property damage coverage. The portion of the resolution addressing the increase in bodily injury coverage should include the judiciary and arbitrators who deal with automobile accidents, as well as insurers, attorneys. We also suggest that in doing this review the commissioner should address rules of evidence regarding the use of seatbelts in trials as this has a bearing on the amounts injured parties may be entitled to receive.

Thank you for the opportunity to present this testimony.



Property Casualty Insurers  
Association of America

Advocacy. Leadership. Results.

To: The Honorable Ryan I. Yamane, Chair  
House Committee on Transportation

From: Mark Sektnan, Vice President

Re: **HCR 137/HR 107 -Working group on electronic notices and increase in  
minimum limits**  
**PCI Position: Support**

Date: Monday, March 25, 2013  
11:15 a.m., Conference Room 309

Aloha Chair Yamane and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is pleased to support House Concurrent Resolution 137 and House Resolution 107 which would request the Insurance Commissioner to convene a working group to explore the use of electronic transmission of insurance notices and documents and the potential increase to Hawaii's minimum liability coverage for motor vehicle insurance.

PCI is a national trade association consisting of more than 1,000 member insurance companies of all sizes and types. In Hawaii, PCI members write \$721 million of premium (\$336.6 million – personal lines and \$384.1 million – commercial lines), about 35 percent of the state's general insurance market. In Hawaii, PCI members also represent 44.1 percent of the personal auto market. More than 220 PCI members provide insurance to Hawaii's individuals and businesses. Among this group, seven PCI members are headquartered in Hawaii.

PCI appreciates the opportunity to be a member of the proposed working group and brings both national resources and a local perspective to the issues which will be addressed by the working group. Currently, PCI is a member of the SB 495 working group looking at creating a system of on-line verification for motor vehicle insurance.

For these reasons, we urge the committee to pass this bill.