

# HB1876

Measure Title: RELATING TO MOTOR VEHICLE INSURANCE.

Report Title: Motor Vehicle Insurance; Insurers; Offices

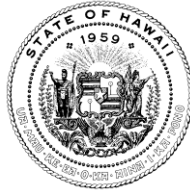
Description: Allows motor vehicle insurers to satisfy the requirement that insurers provide a complete sales and claims office in the State by allowing the insurer's licensed producer to establish and maintain an office. (HB1876 HD1)

Companion: [SB2652](#)

Package: None

Current Referral: CPH

Introducer(s): TAKUMI, ICHIYAMA



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TO THE SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Tuesday, March 13, 2018  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 1876, H.D. 1, RELATING TO MOTOR VEHICLE INSURANCE.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 1876, H.D.1, Relating to Motor Vehicle Insurance. My name is Gordon Ito, and I am the Insurance Commissioner for the Department’s Insurance Division. The Department opposes this bill and submits the following comments.

The Insurance Code requires a Hawaii motor vehicle insurer to maintain a physical presence in the State to provide complete sales and claims services to the public. This bill would allow “an office” established and maintained by “any licensed producer of an insurer” to satisfy that obligation.

Among the reasons that chapter 431, Hawaii Revised Statutes, requires insurers to maintain a field presence in Hawaii is its geography. Hawaii’s remoteness, coupled with the inevitability of natural disasters, requires insurers to maintain a brick-and-mortar presence that will assure their policyholders of convenient access and prompt claim adjustment. The physical presence of motor vehicle insurers and/or their claims

administrators matters. Recent hurricanes caused disastrous damage in Louisiana, Texas, Florida, and Puerto Rico, U.S Virgin Islands where electric grids, electronic devices, and other safeguards were not available to these communities. Not one of those states and territories is nearly as isolated as Hawaii.

The existing requirement that an insurer maintain a physical presence in the State is neither unreasonable nor onerous, since every Hawaii motor vehicle insurer currently maintains a sales and claims office to provide consumers with easy, convenient access. Certain insurers have closed their claims operation while maintaining sales offices, resulting in loss of adjusting jobs in Hawaii. This measure may result in eliminating additional adjusting jobs.

The existing law does not prohibit or discourage insurers from creating efficiencies and improving their operations. In fact, insurers are rapidly implementing changes that benefit existing customers and promote market share growth. The Department strongly believes, however, that a motor vehicle insurer's physical sales and claims presence is, and should remain, an integral part of its service plan.

By shifting an insurer's statutory responsibility for establishing and maintaining a visible, productive presence to an unnamed individual producer required only to maintain "an office," questions arise as to whether a "producer" will have the same authority to act as a "full claims" office. Will the producer be authorized to adjust claims and pay each claim in full, will the producer have only limited check-writing authority, or will the producer act merely as a conduit to a regional claims operations center? The proposed change also raises concerns including a producer's potential conflict of interest resulting from acting as a "sales" representative and a "claim" adjuster.

Should this Committee be inclined to pass this measure, we are respectfully requesting that this bill be amended to require an insurer to have producers on all islands on which it does business to perform these functions. This would make an insurer's services, through its producers, readily accessible and available to meet its policyholders' needs. We propose that page 3, lines 8 through 11, be amended to read as follows:

“...service office in the State; provided that the establishment and maintenance of offices by licensed producers of an insurer on every island the insurer does business shall meet the requirements of this paragraph; and....”

Thank you for the opportunity to testify on this measure.

**SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

March 13, 2018

House Bill 1876, HD1 Relating to Motor Vehicle Insurance

Chair Baker, Vice Chair Tokuda, and Members of the Committee on Commerce, Consumer Protection, and Health:

I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers the following comments regarding House Bill 1876, HD1.

The purpose of this bill is to modernize the language in HRS section 431:10C-119, by creating an alternative method to meet the requirement for a “complete claims and sales office.” The current provision was drafted when virtually all commercial activity was conducted from “brick and mortar” structures and customers had to trek to those locations to purchase everything needed in everyday life, including insurance. Today, however, many products and services previously accessed at a physical office can be obtained digitally through mobile smart phone or internet technology. The Legislature recognized this when it passed a bill allowing electronic versions of insurance cards to meet the proof of insurance requirement.

Current law requires the insurance commissioner to require insurers to maintain a physical sales and claims office in Hawaii in order to sell auto insurance. Curiously, this only applies to auto insurance, and it does not apply to a “member-owned reciprocal insurer and its wholly owned insurer subsidiaries.” And in the case of mass merchandised insurance there is an exception if the insurer has producers who have offices. This bill recognizes the reality that both sales and claim handling can be done without requiring an insured to go to an office, making the process of buying insurance or making a claim both easier, faster, and more efficient. Insurance applications are now submitted online with smartphones or computers, and there is no need for the insured to go to an office to submit a claim. Claims forms and damage photos are submitted digitally, and claims adjusters communicate with claimants and body shops through computers and telephonically.

Section 431:10C-119(a)(2) is only one of two sections related to insurance that require a physical sales and claims office; the other is section 431:12-115, which relates to the “mass merchandising” of insurance products. This is defined as the selling of insurance to employees of a particular employer. Section 431:12-115 requires a mass merchandiser to “maintain at all times an office in the State to conduct the administration of its business and handle claims,” but, it provides that this requirement can be met by the “establishment and maintenance of an office by a licensed producer of an insurer.” This language has been inserted into section 431:10C-119(a)(2), and would allow insurers like State Farm to meet the requirement for a complete claims and sales office through the network of agents’ offices throughout Hawaii.

The proposed bill continues the trend for the Insurance Code to reflect the current state of business, and provide consumers with the convenience they desire.

We strongly support the revised HD1, as drafted.

Thank you for the opportunity to present this testimony.

Hawaii State Legislature  
Senate Committee on Commerce, Consumer Protection and Health

March 12, 2018

*Filed via electronic testimony submission system*

**RE: HB 1876, HD 1, Motor Vehicle Insurance; Claims Service; Sales - NAMIC's Written Testimony IN SUPPORT**

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the March 13, 2018, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation. NAMIC's written comments need not be read into the record, so long as they are referenced as a formal submission and are provided to the committee for consideration.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 84 members who write property/casualty/workers' compensation in the State of Hawaii, which represents 28% of the insurance marketplace.

NAMIC is pleased to support this reasonable and appropriate business modernization bill. The insurance industry, like the rest of the business world, has embraced modern technology, and consumers' desire to engage in online business.

In recent years, the Hawaii State Legislature has passed bills to allow for electronic communications between insurers and their policyholders, and has allowed insurance consumers to provide proof of compliance with the motor vehicle financial responsibility law, via mobile device displayed proof of insurance.

HB 1876, HD 1 is just the next logical step down the path of unavoidable modernity. The proposed legislation merely recognizes the fact that the business community, including the insurance industry, needs flexibility to address consumer online business transaction needs in a consumer-friendly, technology-friendly, and green-friendly manner. HB 1876, HD 1 will allow insurers to use modern technology to provide valuable consumer services to members of the community without the overhead cost of unnecessary physical office premises around every corner.



The proposed legislation also specifically continues the Commissioner of Insurance's broad discretion to regulate how insurance companies engage in automobile insurance sales and claims adjusting practices in the state.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you would like to discuss NAMIC's written testimony.

Respectfully,

Christian John Rataj, Esq.  
NAMIC Senior Regional Vice President  
State Government Affairs, Western Region

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION OF H.B. 1876, HD1**

Date: Tuesday, March 13, 2018

Time: 9:00 a.m.

Room: 229

To: Chair Rosalyn H. Baker and Members of the Senate Committee on Commerce, Consumer Protection and Health.

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition of H.B. 1876, HD1, Relating to Motor Vehicle Insurance.

This bill eliminates the requirement that insurers maintain a complete “brick and mortar” sales and claims service office within the State. There are sound reasons for this requirement.

First, a physical office in Hawaii staffed by adjusters familiar with Hawaii statutes, administrative rules, court practices and local providers such as auto repair shops, hospitals and doctors is simply better able to serve Hawaii consumers. Several large insurers have been eliminating local offices and establishing regional call centers that handle claims from several states. Hawaii’s laws are significantly different from those of any other state in the nation. While attorneys may be quick to recognize errors made by adjusters who are not as familiar with Hawaii requirements, ordinary consumers are not likely to know better. As a practical matter, Hawaii is a very small market. When lumped, in say a Western Region, with California, Oregon, Washington and Nevada, individual adjusters are likely to handle few Hawaii claims relative to claims from states with many more insureds and often apply mainland law because that is what they handle most and are most familiar with.



Second, depending on the insurer, Hawaii claims can be assigned to west coast, mid-west or eastern claim centers with time differences of 3-6 hours for half the year and 2-5 hours the rest of the year. Hawaii is unique in that way because most mainland states are generally grouped in regional offices within the same time zone or the one next to it keeping time differences the same or within an hour. Hawaii is not always assigned to the western region because of its small size and several carriers place Hawaii in their mid-west time zone for administrative reasons.

Third, some types of claims are more conveniently handled locally for local consumers. Auto repairs are an example. There are instances where photos sent over the internet may suffice or a quick call to someone in Texas may be adequate, but for those who have more complicated issues or need personal assistance a local claims office still serves a critical need.

Fourth, present Hawaii law does not prohibit insurers from conducting sales, underwriting and claims services over the internet for those who wish to utilize web based services. Insurers can still conduct business over the internet while maintaining a local presence to meet the needs of those who need personal assistance or handle claims that are more efficiently resolved locally.

Fifth, it is important to maintain the requirement for a “complete” claims office. The proposed amendment would allow any “office” to suffice, even one staffed only with a receptionist who will transfer all business to mainland call centers. A local office is of no use if it is not properly staffed.

We agree with the DCCA's objection that the "existing requirement of a physical presence is neither unreasonable nor onerous." We further agree DCCA's suggestion that every Hawaii motor vehicle insurer maintain a complete claims office in each county; but if not, sound public policy requires insurers to maintain at least one complete sales and claims office in the State.

While we understand that some sales and claims transactions can be adequately handled through the internet, it should not be at the exclusion of the requirement to have a physical presence. Furthermore, not all of the insureds are tech savvy or have access to secure internet services so there is still a great demand for in-person sales and claims facilities. Therefore, we ask that this measure be held. Thank you for this opportunity to testify.