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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Friday, February 16, 2018
4:00 p.m.

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

TO THE HONORABLE SYLVIA LUKE, 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, which is a companion to S.B. 2652, 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.

Thank you for the opportunity to testify on this measure.

**HOUSE COMMITTEE ON
FINANCE**

February 15, 2018

House Bill 1876, HD1 Relating to Motor Vehicle Insurance

Chair Luke, Vice Chair Cullen, and Members of the Committee on Finance:

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.