



DAVID Y. IGE
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

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Thursday, February 1, 2018
2:00 p.m.

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

TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 1876, 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.

This bill would shift to “any licensed producer of an insurer” the existing obligation that a Hawaii motor vehicle insurer maintain a “brick and mortar” presence in the State to provide complete sales and claims servicing to the public.

Hawaii’s remoteness, coupled with the inevitability of natural disasters, requires insurers to maintain a physical presence that will assure their policyholders of convenient access and prompt claim adjustment. The “brick and mortar” presence of motor vehicle insurers and claims administrators protects consumers by ensuring, in a tangible way, that their insurance companies are committed to responding to their needs, including the timely resolution of disputed claims.

The existing requirement of a physical presence is neither unreasonable nor onerous, since every Hawaii motor vehicle insurer currently maintains an office in the State to provide consumers with easy, convenient access. In addition, the proposed change that would require “any licensed producer” to establish and maintain “a complete sales and claims service office” does not promote accessibility to an insurer for sales and claims services. Insureds may be confused because the physical location of the sales and claims office, and name of the licensed producer who would provide in-person sales and service assistance, may not be evident. If all licensed producers were required to maintain a sales and service office, the scale of the financial commitment would likely drive producers from the market, a clear disservice to Hawaii consumers.

If the purpose of this bill is to expand public access to a physical sales and claims office, the Department respectfully requests that the Legislature consider amending this bill to include language from S.B. 372, S.D.1 from the 2017 Legislative session, which would require every Hawaii motor vehicle insurer to maintain at least one physical sales and claims service office in each county. The language from that bill would expand the present Hawaii Revised Statutes chapter 431 requirement that a motor vehicle insurer maintain a “brick and mortar” presence in the State to provide complete sales and claims services to the public.

Thank you for the opportunity to testify on this measure.

**HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE**

February 1, 2018

House Bill 1876 Relating to Motor Vehicle Insurance

Chair Takumi, Vice Chair Ichiyama, and Members of the Committee on Consumer Protection and Commerce:

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

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.” We believe that this language, if inserted into section 431:10C-119(a)(2), 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. It also reserves for the

commissioner the ability to ensure that adequate arrangements have been made for claims service and adjustment; if an insurer is not meeting its obligations, the commissioner can require an in-state claims office. This gives the commissioner maximum flexibility to modernize sales and claims handling, and allows insurers to keep up with their customers' expectations for convenient and fast service in an electronic age.

We have prepared and attached a proposed HD1 for the committee's review, which incorporates the language we proposed above. We strongly support the revised HD1.

Thank you for the opportunity to present this testimony.

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that existing language in
2 the State's motor vehicle insurance code requires insurers to
3 maintain a "brick and mortar" sales and claims service
4 office. When originally written, the code did not envision the
5 Internet, cellular smart phones, or computerization. Today,
6 many of the functions once done in a physical office are being
7 met through mobile smart phone or internet technology. Insureds
8 can now go on their mobile device and purchase motor vehicle
9 insurance or file a claim. Consequently, in 2016, the
10 legislature passed legislation allowing electronic insurance
11 cards, in addition to paper insurance cards, to be used as proof
12 of insurance for motor vehicles, motorcycles, and motor
13 scooters. The legislature finds that this modernization trend
14 can be extended to sales and claims handling for motor vehicle
15 insurers while still ensuring appropriate protections for
16 consumers. Moreover, easing the sales and claims office
17 requirements under the motor vehicle insurance code will bring

1 the motor vehicle insurance code in line with the statutory
2 requirements for other types of insurers, such as other property
3 and casualty line insurers, in the State. Accordingly, the
4 purpose of this Act is to allow licensed producers of motor
5 vehicle insurers to satisfy the requirement that insurers
6 provide a complete sales and claims office in the State.

7 SECTION 2. Section 431:10C-119, Hawaii Revised Statutes,
8 is amended by amending subsection (a) to read as follows:

9 "(a) Prior to licensing an insurer to transact a motor
10 vehicle insurance business in this State, the commissioner:

11 (1) Shall effect a thorough examination of the insurer's
12 business experience, financial soundness, and general
13 reputation as an insurer in this and other states. In
14 the discretion of the commissioner, this examination
15 may include an examination of any or all of the
16 business records of the insurer, and an audit of all
17 or any part of the insurer's motor vehicle insurance
18 business, each to be performed by the commissioner's
19 staff or by independent consultants. No license shall
20 be issued until the commissioner is satisfied as to
21 the business experience, financial solvency, and the
22 economic soundness of the insurer;

23 (2) Except for a member-owned reciprocal insurer and its
24 wholly owned insurer subsidiaries, as specified in

1 subsection (c), shall require of each insurer, and
2 determine that satisfactory arrangements have been
3 made for, the provision of a complete sales and claims
4 service office in the State; provided that the
5 establishment and maintenance of a sales and claims
6 service office[s] by any licensed producer of an
7 insurer shall meet the requirements of this
8 paragraph; and

9 (3) Notwithstanding any other requirements of this section
10 or of the insurance code, may require a bond in a
11 reasonable amount and with deposits or sureties
12 determined in the commissioner's discretion of any
13 applicant for a license hereunder. The commissioner
14 may, at any time, make and enforce such a requirement
15 of any licensed insurer or self-insurer."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.