

# SB2652

Measure Title: RELATING TO MOTOR VEHICLE INSURANCE.

Report Title: Motor Vehicle Insurance; Insurers; Offices

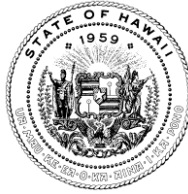
Description: Allows licensed producers of motor vehicle insurers to satisfy the requirement that insurers provide a complete sales and claims office in the State by instead allowing the licensed producer to establish and maintain a sales and claims office.

Companion: [HB1876](#)

Package: None

Current Referral: CPH

Introducer(s): BAKER, INOUE, S. Chang, English, Gabbard, Galuteria, Ihara, Nishihara



DAVID Y. IGE  
GOVERNOR  
DOUGLAS S. CHIN  
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 SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE  
Regular Session of 2018

Tuesday, February 20, 2018  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2652, 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 S.B. 2652, 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 H.B. 1876, H.D. 1, 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.

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.

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.

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

February 20, 2018

Senate Bill 2652 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 Senate Bill 2652.

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 have prepared and attached a proposed SD1 for the committee’s review, which incorporates the language we proposed above. This version was passed by the House Consumer Protection and Commerce Committee, and we strongly support the revised HD1, as drafted.

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.

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

February 19, 2018

*Filed via electronic testimony submission system*

**RE: SB 2652, 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 February 20, 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.

SB 2652 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. SB 2652 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) REGARDING S.B. 2652**

Date: Tuesday, February 20, 2018

Time: 9:00 a.m.

Room: 229

To: Chair Rosalyn H. Baker and Members of the Senate Committee 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) regarding S.B. 2652, Relating to Motor Vehicle Insurance as currently drafted.

The bill's intent is to streamline the sales and claims process for motor vehicle insurers. However, this is different from getting an electronic insurance card. From a local driver's perspective, it is important that motor vehicle insurers maintain a "complete" sales and claims service office in the State which is the current law. When drivers make automobile claims, it is often time-sensitive and trying to contact an adjuster who is several time zones away can pose difficulties. If a physical inspection is required, this is another difficulty. Local claims adjusters are also more familiar with the particular claims and will likely be able to resolve them more efficiently than someone at a call center.

At page 3, lines 8-11, the bill allows for a licensed producer of an insurer to establish and maintain "a sales and claims service office," but does not require that it is "complete," as the current law requires. Taking out "complete" opens up too many uncertainties on what the claims and sales office should provide to its customers.

Therefore, we ask that this provision be deleted so that our local drivers are assured that they will have full and complete service available to them here.

Thank you for considering our testimony