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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce, Consumer Protection & Health
and
Senate Committee on Judiciary
Friday, February 21, 2020
10:00 a.m.
State Capitol, Conference Room 209**

**On the following measure:
S.B. 2434, RELATING TO MOTOR VEHICLES**

Chair Baker, Chair Rhoads, and Members of the Committees:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to authorize county directors of finance to issue certificates of ownership and salvage certificates to expedite the disposal of salvaged motor vehicles under specified circumstances.

The Department appreciates the bill's intent to expedite the transition of ownership of salvaged vehicles between policyholders and insurers by allowing insurers to seek ownership within 30 days after the payment of a claim (page 3, lines 13 to 20). However, there are circumstances when such expediency negatively impacts policyholders.

Hawaii Revised Statutes (HRS) section 431:13-103(a)(11)(f) mandates that motor vehicle insurers remit payments on undisputed portions of clean claims within 30 days after liability is accepted. The total loss cost of vehicles may be in dispute in cases where policyholders believe their vehicles are worth more than insurers' valuations. Under these circumstances, this bill would allow insurers to pay an amount that is undisputed and, while still negotiating with the policyholder over the disputed portion, file for ownership of the vehicle after 30 days without settling the dispute, to the detriment and consternation of the policyholder.

In addition, the Department respectfully requests deleting the following language on page 8, lines 4 to 6 of the bill: "Notwithstanding any provision of law to the contrary, the provisions of this subsection shall govern the disposition and title to a motor vehicle described herein." This provision conflicts with HRS sections 431:10C-309 through 311 which provide an established scheme for the processing and payment of total loss motor vehicle claims.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Friday, February 21, 2020
10:00 a.m.

SB 2434

Chair Baker, Vice Chair Chang, and members of the Committee on Commerce, Consumer Protection, and Health, and Chair Rhoads, Vice Chair Keohokalole, and members of the Committee on Judiciary, my name is Alison Ueoka, President of the Hawaii Insurers Council. The 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 forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council supports the bill and submits the following comments. This bill provides a process to complete salvaged vehicle title transfers when owners abandon a motor vehicle without completing the title transfer.

We have worked with Insurance Auto Auctions for whom this bill was introduced, and we have agreed to the following language to be inserted into Section 2 of the bill, Section 286-48, after (c)(4):

“The insurance company shall indemnity and hold harmless the director of finance from all civil liability resulting from the issuance of the certificate of ownership or salvage certificate to the insurance company pursuant to this

subsection, except if the civil liability is based on the gross negligence or willful misconduct of the director of finance or the director's agent."

This language would replace the provisions on page 5, lines 1-8 of the bill, which clarifies insurer indemnification of the director of finance.

With this amendment, we support the bill. Thank you for the opportunity to testify.

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF INSURANCE AUTO
AUCTIONS, INC. (IAA) IN SUPPORT OF S.B. 2434**

February 21, 2020

To: Chairperson Rosalyn Baker and Chairman Karl Rhoads and Members of the Senate Committees on Consumer Protection and Health and on Judiciary:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Insurance Auto Auctions, Inc. (IAA) in support of S.B. 2434, Relating to Motor Vehicles.

Insurance Auto Auctions is a salvage auction company that handles the sale of damaged and theft-recovered vehicles for the insurance industry. They have one location in the state of Hawaii (Kapolei, Honolulu).

Automobile insurers process thousands of total loss claims in Hawaii each year. For the vast majority of these claims, after the total loss settlement is paid to the vehicle owner and any lienholder, the certificate of title for the vehicle is available to the insurer and the further titling of the vehicle can be handled in accordance with Hawaii statutes. However, there are occasions when, even though the insurer has paid the total loss settlement, the certificate of title for the vehicle is not made available to the insurer. The result of the above situation is that vehicles sit in salvage auction facilities, often with no straight-forward or efficient way to dispose of them.

This bill sets forth a process whereby, in this case, the insurer may obtain a salvage certificate for the vehicle without surrendering the certificate of title. The insurer will send an application for a salvage certificate to the DMV along with proof of payment of the claim and a copy of the notices sent to the owner and any lienholder requesting the certificate of title.

The above process will help insurers expedite the receipt of an ownership document in their name and implement the salvage laws in a timely manner.

Sometimes vehicles that have been brought to the salvage auction facility at the direction of an insurance company after a claim has been filed by the owner get abandoned on their property by the owner. This happens, for example, when the insurance company denies coverage. Examples of denied coverage situation include when the damage exceeds policy limits or collision damage may not be covered under the policy. Or, during the claim process, the vehicle owner changes his mind and wants to keep ownership of the total loss vehicle. The insurer pays the value of the vehicle to the owner but then the owner abandons the vehicle at the salvage pool.

The bill sets forth a process for a salvage auction to dispose of an abandoned vehicle on its property if the owner or lienholder does not remove the vehicle from the salvage auction's facility after due notice has been sent.

Upon reviewing this bill I would recommend some minor amendments: (1) remove the words "the prescribed affidavit" on page 2, line 17, and substitute the words "certificate of registration, license plates" in its place; (2) remove the word "or" on page 4, line 12 and substitute the word "and" in its place; (3) remove the word "motor" on page 8, line 15, and on page 9, line 2.

Also, after a discussion with the Hawaii Insurer's Council (HIC) we recommend deleting the provision on page 5, lines 4-8 starting with the word "The" and ending with the word "subsection.", and substituting the following: **"The insurance company shall indemnify and hold harmless the department for any claims resulting from the issuance of a salvage**

certificate of title, stolen vehicle certificate of title or nonrepairable vehicle certificate of title pursuant to this subsection.”

Last, we request that the effective date be upon approval or July 1, 2020 if time is needed.

Thank you for scheduling this bill and allowing me to submit this testimony.

SB-2434

Submitted on: 2/19/2020 7:25:16 PM

Testimony for CPH on 2/21/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments: