

Hawai'i State Legislature
Senate Committee on Commerce and Consumer Protection

January 25, 2025

Filed via electronic testimony submission system

RE: SB 142, Relating to Insurance: Claims Payments - NAMIC's Testimony in Opposition

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the January 28, 2025, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

The National Association of Mutual Insurance Companies consists of nearly 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America as well as many of the country's largest national insurers. NAMIC member companies write approximately \$391 billion in annual premiums and represent 68 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance.

Although NAMIC's members are committed to providing insurance consumers with a timely, efficient, secure and convenient modality for receiving payment of their claims, we are opposed to the proposed legislation for the following legal and public policy reasons:

- 1) Insurers are required to honor the terms of their insurance agreement, which means that they issue payment for a covered claim. Insurers do not *guaranty the safeguarding* of the payment once it has been properly sent to the insurance consumer. This additional protection is not part of the insuring agreement, because such a protection is a personal financial security issue not an insurance coverage claims issue.
- 2) The proposed requirement that insurers re-issue payment, i.e. make a second independent payment of the claims settlement, if the consumer fails to properly safeguard their settlement, would be an inappropriate insurance rate cost-driver because such a claims expense is not factored into current insurance rates paid by policyholders.
- 3) NAMIC is concerned that the proposed legislation is unnecessary, because there is no data that supports the supposition that this situation the bill is intended to address is a widespread problem. Moreover, SB 142 would incentivize and facilitate insurance fraud by allowing for the collection of multiple payments for the same insurance claims. NAMIC appreciates that the bill would require the insurance consumer payee to sign an affidavit that they are not engaged in fraud, but there is no evidence offered by the sponsors of the bill that such a requirement would have any meaningful deterrence value and would actually prevent insurance fraud. According to the Coalition Against Insurance Fraud, an estimated 20% of insurance claims are fraudulent and the annual estimated cost, calculated as of January 2025, to consumers is \$308.6 Billion dollars. NAMIC is concerned that the proposed legislation will only exacerbate the insurance fraud problem.

- 4) The proposed legislation could have an adverse impact upon insurers' ability and willingness to offer check payments to consumers who prefer this form of payment as opposed to a direct electronic payment. Specifically, if insurers are going to be placed in the position of increased financial claims exposure whenever they issue a claims settlement via a physical check, many insurers will no longer provide this payment option and courtesy to insurance consumers.

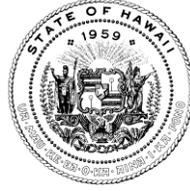
For the aforementioned reasons, NAMIC respectfully requests your No Vote on SB 142.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at 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



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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, January 28, 2025
9:30 a.m.
State Capitol, Conference Room 229 and via Video Conferencing**

**On the following measure:
S.B.142, RELATING TO INSURANCE**

Chair Keohokalole and Members of the Committee:

My name is Gordon I. Ito, 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 require insurers who choose to pay the proceeds of or a claim under an insurance policy by issuing a check to deliver the check by certified mail, restricted delivery, postage prepaid, return receipt requested, to the last known address of the person designated in the policy as being entitled to the insured or designated beneficiary; it establishes that insurers who choose to pay the proceeds of or a claim under an insurance policy by issuing a check shall not be relieved of their obligation to pay the proceeds or claim until they receive a sworn affidavit from the insured or designated beneficiary confirming receipt of the check; and it establishes remedies for claimants if a check is lost, destroyed, or stolen and for insurers if they incur losses due to reissuing the check.

While we appreciate the intent of the bill, the Department notes that the cost of handling claims will likely increase with the requirement that “[a] check shall be delivered by way of United States certified mail, restricted delivery, postage prepaid, return receipt requested.” Pg.1, line 8. The type of insurance policies offered will also impact operating costs since some products, such as disability income and annuity policies, may require more frequent monthly or weekly checks as opposed to a large, one-time claim check. This will add additional costs which will be passed on to policy holders through an increase in the price of products purchased and maintaining lines of insurance.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Tuesday, January 28, 2025
9:30 a.m.

SB 142

Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection, my name is Alison Ueoka, President of 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 **opposes** this bill. SB 142 requires insurers to issue all claim checks via USPS certified mail, restricted delivery, postage prepaid, return receipt requested, to the insured or designated beneficiary. It further requires the insurer to keep their claim file open until they receive a sworn affidavit from the insured or designated beneficiary confirming receipt of the check and finally, if the check is lost, destroyed, or stolen, the insured or designated beneficiary may submit a written request to the insurer including a sworn declaration.

This bill adds unnecessary costs and delays to a system that is already working. When a claim is settled or when a check is issued, the insured or designated beneficiary is usually waiting for the check to arrive. If it does not arrive, the insured or designated beneficiary can and does contact the insurer and inform them that they have not received their check. The insurer will respond by either asking the insured or designated beneficiary to wait for the appropriate time for the mail to arrive, or they will stop payment and reissue the check.

Adding costs to the entirety of the property and casualty insurance claims process does nothing to enhance the current process. It in fact, may add delays and anxiety to the claimant by requiring them to develop and sign a sworn affidavit and a sworn declaration before an insurer can reissue a check.

Personal lines insurance – both auto and property, is in an extremely hard market and we encourage the legislature to not add unnecessary costs and burdens to both the insurer and insured.

We respectfully ask that this bill be held. Thank you for the opportunity to testify.



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GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: January 28, 2025

TO: Senator Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection

FROM: Matt Tsujimura

RE: **S.B. 142 – Relating to Insurance**
Hearing Date: Tuesday, January 28, 2024 at 9:30AM
Conference Room: 229

Dear Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee on Commerce and Consumer Protection:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers this testimony **in opposition** to S.B. 142 – Relating to Insurance.

S.B. 142 requires insurers who choose to pay the proceeds of or a claim under an insurance policy by check to deliver the check by certified mail, restricted delivery, postage prepaid, return receipt requested. It also establishes that insurers shall not be relieved of their obligation until the insurer receives a sworn affidavit from the insured or designated beneficiary confirming receipt of the check.

State Farm is concerned that S.B. 142 creates significant procedural burdens for both insurers and consumers, in particular by requiring a sworn affidavit confirming receipt of payment. This new requirement is a departure from the long-standing business practices of the insurance industry, and is more likely to lead to increased cost and confusion for consumers.

For these reasons we offer this testimony in opposition. Thank you for the opportunity to testify.



To: The Honorable Senator Jarrett Keohokalole, Chair
The Honorable Senator Carol Fukunaga, Vice Chair
Senate Committee on Commerce and Consumer Protection

From: Mark Sektnan, Vice President

Re: **SB 142 – Relating to Insurance**
APCIA Position: Oppose

Date: Tuesday, January 28, 2025
9:30 a.m., Room 229

Dear Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

The American Property Casualty Insurance Association is **opposed to SB 142**, which would impose costly and unnecessary requirements for claims checks sent by mail. The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. With a legacy dating back 150 years, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

SB 142 would place an undue burden on insurance companies for ALL claims in trying to resolve a very infrequent problem where the insureds or claimants dispute receipt of checks from insurance carriers. The bill creates serious problems for the payment of claims, including additional cost to mail checks by certified mail, restricted delivery, postage prepaid as well as return receipt requested, that will ultimately be passed on to Hawaii residents in the form of higher premiums. These requirements could delay payments since these mailing methods often take longer to process than regular mail. Furthermore, the bill could impose a burden on the policyholder who would have to go to the post office if they were not home when the check was delivered. By imposing more stringent and time-consuming mailing requirements, these new requirements could also put insurance companies at risk of bad faith lawsuits because attorneys often give insurers very tight timelines to tender injury settlement checks.

SB 142 applies not only to checks the insurer sends to claimants but also applies to checks the insurer receives. Many insurers utilize post office boxes (PO Boxes). Certified mail/restricted delivery cannot be mailed to PO Boxes. If so, this will create a huge issue for carriers to receive subrogation payments from each other.

For these reasons, APCIA asks the committee to HOLD this bill in committee.

SB-142

Submitted on: 1/28/2025 8:39:16 AM

Testimony for CPN on 1/28/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Daryl Huff	Individual	Support	Written Testimony Only

Comments:

Mahalo for this opportunity. Like many homeowners, the check I recieved from my home insurer after damage by wind on August 8, 2023 required signatures of the lenders on my house. I was required to send the paper check to my mainland mortgage company. It was stolen from Fedex en route and was forged and cashed in California. My insurer has refused to reimburse me and the banks involved have disputed that they should reimburse the insurer for the fraud. I am out over \$14,000. The bill has one potential flaw in that it seemed to required checks to be mailed to the insured. Many checks are hand-delivered by the insurer. Mahalo for introducing this bill.