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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Friday, January 31, 2025
9:30 a.m.
State Capitol, Conference Room 229 and via videoconference

On the following measure:
S.B. 1128, RELATING TO INSURANCE

Chair Keohokalole and Members of the Committee:

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

The purpose of this bill is to establish requirements for insurers relating to claims for additional living expenses under homeowners' insurance policies, including situations where losses are incurred during a state of emergency.

The bill mandates that insurers grant policyholders six month extensions, for good cause, in addition to the thirty-six months provided for in this bill. This could lead to difficulty in regulating disputes because what constitutes "good faith", page 2, line 5, and "good cause", page 2, lines 8-9 and page 3, line 8, have yet to be defined. The Department acknowledges that allowing an extension of alternative living expenses will provide support and help ease the worries homeowners may face during a time of emergency; however, we note that increasing the period of time additional living expenses can be claimed by a considerable amount will likely result in higher premiums, may influence property insurers' decisions to remain in Hawai'i, discourage new insurers from entering Hawai'i, and ultimately make it more difficult for property owners to obtain insurance.

Thank you for the opportunity to testify.

NAMIC
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

LATE

317.875.5250 | [F] 317.879.8408
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Hawai'i State Legislature
Senate Committee on Commerce and Consumer Protection

January 28, 2025

Filed via electronic testimony submission system

RE: SB 1128, Additional Living Expenses - NAMIC's Testimony and suggested revisions to bill

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the January 31, 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.

NAMIC members appreciate the importance of Additional Living Expenses (ALE) coverage for insurance consumers who have been dislocated from their residence after a catastrophic event. Insurers are diligent about making sure that their policyholders receive, in a timely manner, the ALE coverage benefits they have purchased and need after their terrible loss. Our concern is simply one of the public policy pros versus cons of *mandating* that consumers purchase higher coverage limits when they already have the option to *voluntarily* securer higher coverage limits if they believe such expanded coverage is prudent and within their financial budget. In today's inflationary world, mandating new costs for consumers must be balanced against the economic impact of the mandate and the public policy rationale for denying consumer choice in how they best safeguard their finances in light of their personal budget. As the famous saying goes, "[n]othing comes free. Nothing. Not even good, especially not good", so NAMIC respectfully requests that this Committee consider the impact of forcing consumers to purchase expanded ALE benefits they may not want, need and/or can afford.

If the Committee believes that consumers should be *forced to purchase* expanded ALE benefits, we respectfully suggest the following amendments to better clarify the new coverage mandate: (red strike through denotes proposed deletion and red underlining denotes proposed addition)

> **§ 431:10E- Claims for additional living expenses under homeowners insurance policies; states of emergency.** (a) In the event of a loss under a homeowners insurance policy issued or renewed on or after January 1, 2026, for which the insured has made a claim for additional living expenses, the insurer shall provide the insured with a list of items that the insurer believes may be covered under the policy as additional living expenses. The list may include a statement that the list is not intended to include all items covered under the policy, but only those that are commonly claimed. Each insurer may use a list developed by the insurance commissioner.

(b) If a covered loss occurs during a state of emergency declared pursuant to section 127A-14, coverage for additional living expenses shall be for a period of not less than twenty-four months from the inception of the loss; provided that the coverage for additional living expenses shall be subject to other policy provisions. An insurer shall grant an extension of up to twelve additional months, for a total of thirty-six months, if an insured acts in good faith and is reasonably delayed due to a lack of necessary construction materials or available contractors to perform the necessary work. ~~Additional six-month extensions shall be provided to policyholders for good cause.~~

> * Rationale for proposed revision – this language creates ambiguity as to whether the policyholder is eligible for six-month extensions in ALE benefits beyond the maximum thirty-six months required by the bill. The six-month extensions are merely the mechanism for securing thirty-six months of total ALE benefits.

(c) No policy that provides coverage for additional living expenses shall limit the policyholder's right to recovery if the insured premises is rendered uninhabitable by a covered peril <u>at the insured premises</u>…

- Rationale for proposed revision – it clarifies that the covered peril that triggers the uninhabitability needs to be connected to premises that is the subject of the insuring agreement.

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

HAWAII INSURERS COUNCIL
A trade association of property and casualty insurance companies

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Alison H. Ueoka
President

TESTIMONY OF MICHAEL ONOFRIETTI

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

Friday, January 31, 2025
9:30 a.m.

SB 1128

Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection, my name is Michael Onofrietti, ACAS, MAAA, CPCU, Senior Vice President, Chief Actuary & Chief Risk Officer for Island Insurance, Board Chair and Chairman of the Auto Policy Committee for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit association of property and casualty insurance companies licensed to do business in Hawaii. Members companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this bill. This bill imposes new requirements for Additional Living Expenses (ALE) coverages in a homeowners policy. It requires that an insurer provide the insured with a list of items that the insurer believes may be covered as ALE. In addition, the insurers must provide this coverage for 24 months with an extension of up to 12 months, and then additional six-month extensions shall be provided for good cause. ALE shall not be limited if the premises is rendered uninhabitable by a covered peril. Finally, if civil authority restricts access, ALE shall be provided for at least two weeks with additional two-week extensions for good cause subject to other policy provisions.

This bill expands coverage in several instances for ALE and in some cases, indefinitely. This will certainly cause ALE to cost more and will increase premiums for everyone. The uncertainty in duration of coverage for ALE may cause some insurers to eliminate this coverage altogether from their products. If this occurs the policyholder would be totally self-insured for ALE.

The provision of rendering of a premises as uninhabitable does not say how this is determined. If for instance, the policyholder can render the premises uninhabitable, this could lead to an uncertain liability for the insurer and higher premiums or no coverage for ALE. Finally, in civil unrest situations, most insurers offer two-weeks coverage without extension. A mandated continued two-week extension up to policy limits greatly expands this coverage and would result in either higher premiums or the elimination of the coverage.

Mandating coverage, uncertain liability limits, and unlimited extensions of coverage will not produce a more robust product. If insurers continue to offer ALE under the provisions of this bill, coverage will be more expensive. If insurers stop offering ALE in their homeowners policy, the policyholder will be uninsured for ALE. Based on the foregoing, we believe this bill will harm consumers.

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

American Property Casualty Insurance Association[SM]

INSURING AMERICA apci.org

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 1128 – Relating to Insurance**
APCIA Position: Oppose

Date: Friday January 31, 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 1128** which would statutorily extend the time period insurers would have to pay additional living expenses beyond what is in the contract.

The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

SB 1128 makes provisions that if a covered loss occurs during a state of emergency, coverage for additional living expenses (ALE) is extended for twenty-four months with extensions of up to twelve months (totaling thirty-six) in instances where the policyholder is reasonably delayed from performing work due to lack of materials or labor. An additional good-cause extension is adding another six months for a potential total of forty-two months.

APCIA believes that proposed extensions of ALE coverage up to three and half years is unnecessarily long. Other states typically allow for coverage to be limited to twelve months, with some polices offering twenty-four months of coverage. As existing cap provisions are made available to manage costs of coverage to consumers, we believe that the proposed mandated extension of ALE benefits will adversely impact on the affordability of homeowners insurance in Hawaii to the detriment of those consumers.

In an environment where insurance affordability is a contributor to the overall cost of living and home ownership, we believe that consumers should be given the maximum flexibility to determine coverage to manage the cost of the coverage they feel they need.

As consumers can currently purchase ALE coverage through policy endorsement, APCIA recommends that insurers be required to *offer* the extended ALE coverage for periods beyond current policy limits up to the three-year period provided for within the bill. The bill should also be amended to ensure that any additional coverages mandated by the state are subject to the policy limits in the policy. Without this important language, which is part of the law in California which this bill seems to be based on, insurers could be at risk of unlimited exposure.

For these reasons, APCIA asked the committee to **hold SB 1128** in committee.

SB-1128
Submitted on: 1/29/2025 9:52:51 PM
Testimony for CPN on 1/31/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Miri Yi	Individual	Support	Written Testimony Only

Comments:

Aloha,

Submitting testimony **in support** of this bill.

Mahalo,

Miri Y.

Aloha Honorable Legislators,

As a condominium owner and a single parent, I have firsthand experience with the challenges and financial strains faced by many residents in our community due to the current structure of our insurance system. Today, I am here to discuss the provisions of SB 1128, a bill that promises significant improvements to the way additional living expenses are handled under homeowners' insurance policies during states of emergency.

This bill addresses a crucial aspect of disaster recovery—ensuring that homeowners are not left without support when they are most vulnerable. As someone deeply affected by the implications of our existing insurance regulations, I appreciate the intent behind SB 1128 to provide extended coverage and protections for homeowners during catastrophic events. However, while the bill takes commendable steps towards aiding homeowners during such critical times, it also presents areas where it could be strengthened to ensure that no resident is unduly burdened by insufficient coverage or unclear policy stipulations.

Below, I will outline specific elements of the bill that are particularly beneficial, as well as propose amendments that I believe are essential for enhancing its effectiveness and fairness. These suggestions aim to refine the bill to not only meet but exceed its potential in serving the residents of Hawai'i, ensuring that our insurance framework is both robust and equitable.

Analysis of SB 1128:

1. **Extended Coverage Period:** The bill mandates that coverage for additional living expenses in the event of a covered loss during a state of emergency should be not less than 24 months, with the possibility of extensions up to 36 months if delays are caused by external factors such as lack of construction materials or available contractors. This provision is particularly beneficial as it acknowledges the real challenges homeowners face in rebuilding after major disasters.

2. **Protection Against Policy Limitations:** It prohibits insurers from limiting policyholders' rights to recovery if their residences are uninhabitable due to a covered peril. This is crucial as it ensures that homeowners can access the funds necessary for alternative living arrangements without undue restrictions.

3. **Alternative Remedies:** Insurers can provide reasonable alternatives instead of direct living expense payments if such alternatives can more effectively address the uninhabitability issues. This flexibility can be beneficial but may also be subject to misuse if not properly regulated.

4. **Emergency Extensions:** For losses related to states of emergency with civil authority restrictions, the bill provides for an initial two-week coverage for additional living expenses, with potential for extensions. This is critical during widespread disasters when access to affected properties might be restricted for extended periods.

Suggested Amendments:

- **Clarify 'Good Cause' for Extensions:** The term "good cause" should be clearly defined within the bill to ensure it encompasses a wide range of legitimate reasons homeowners may face delays in rebuilding or returning to their homes. Specific examples or criteria would prevent arbitrary decisions on extensions.

- **Regulate Alternative Remedies:** While allowing insurers to offer alternative remedies can be practical, specific standards and guidelines should be established to ensure these alternatives meet or exceed the benefits of direct expense reimbursements. Homeowners should have the right to reject inadequate remedies without penalty.
- **Increase Minimum Emergency Coverage:** Given the potential for prolonged displacement during major disasters, the initial two-week coverage for additional living expenses might be insufficient. Proposing an increase to a minimum of one month with clearer extension criteria could provide better support for affected homeowners.
- **Enhance Transparency and Communication Requirements:** Amendments should require insurers to provide detailed, understandable explanations of coverage and rights under the policy at the time of purchase and following any claim related to additional living expenses. Additionally, requiring electronic communication methods would ensure that all policyholders, especially those who may be displaced, receive timely and accessible information.
- **Oversight and Reporting:** Implement provisions for regular oversight and reporting by the insurance commissioner to monitor compliance with these extended coverage requirements and assess their impact on homeowners' recovery post-disaster.

By addressing these areas, the bill can better serve the interests of homeowners, ensuring they receive sufficient support during disruptive and often devastating periods without facing undue financial strain from prolonged displacements.

Mahalo,

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