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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Judiciary
Friday, February 21, 2025
10:20 a.m.

State Capitol, Conference Room 016 and via Video Conferencing

On the following measure:
S.B. 142, S.D. 1, RELATING TO INSURANCE

WRITTEN TESTIMONY ONLY

Chair Rhoads and Members of the Committee:

My name is Jerry Bump, and I am the Acting Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department appreciates the intent of this bill and offers the following comments.

The purpose of this bill is to allow an insured to authorize the insurer to electronically deliver a claim check to the insured's mortgagee when a homeowners insurance policy that covers a mortgaged property allows for the payment of proceeds by issuing a check; and to require a mortgagee in receipt of electronic delivery of a claim check to deliver the proceeds of the claim to the insured in accordance with the mortgage agreement and the insurance policy.

While we appreciate the intent of the bill, the Department notes that articles 10 and 10E of chapter 431, Hawaii Revised Statutes, the Insurance Code, do not define the terms "electronic delivery" and "mortgage agreement". We respectfully request that

these terms be defined in subsection (c) for purposes of clarity, consistency, and protection for consumers and their claims check.

Thank you for the opportunity to testify.

FOR: Member companies doing business in Hawaii

ADVISORY: NAMIC opposed claims settlement payment bill passed out of committee with helpful amendments

February 20, 2025

The Senate Commerce and Consumer Protection Committee passed, as amended, SB 142, Insurance Policy Claims Proceeds, with a number of positive amendments. The bill will next be heard in Senate Judiciary – no hearing date has been scheduled.

The **introduced legislation** would have required insurers who choose to pay an insurance claim 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, and establishes that insurers who choose to pay a claim by issuing a check shall not be relieved of their obligation to pay if check is stolen from policyholder.

The Committee amended (**SB 142, SD1**) the bill by:

(1) Deleting language that would have:

(A) Required insurers to deliver checks by United States certified mail, restricted delivery, postage prepaid, return receipt requested;

(B) Provided that an insurer who chooses to pay the proceeds of a claim by check shall not be relieved of its obligation to pay the claim proceeds until it received a sworn affidavit from the insured or designated beneficiary confirming receipt; and

(C) Established procedures in the event of a lost, destroyed, or stolen check;

(2) Inserting language that:

(A) Clarifies that, when a homeowners insurance policy that covers a mortgaged property allows for the payment of proceeds by issuing a check, the insured may authorize the insurer to electronically deliver the check to the insured's mortgagee; and

(B) Requires an insured's mortgagee in receipt of electronic delivery of a claim check to deliver the proceeds of the claim to the insured in accordance with the mortgage agreement and the insurance policy.

The bill was amended by the committee, but the amended bill has yet to be posted by the legislature.

NAMIC opposed the portion of the bill that would expand insurer legal responsibilities for a claims payment once the settlement check has been issued by the carrier to the policyholder and is no longer within the control of the insurer.

We will continue to express concern with any provision in the bill that creates a legal duty to safeguard a settlement payment once the payment has been issued by the carrier and properly mailed to the policyholder. The original language of the bill arguably would require the insurer to have to re-issue a second payment if the policyholder was somehow swindled or defrauded out of the check and cashed by a criminal third-party.



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

February 19, 2025

The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Members of the Senate Committee on Judiciary

Hearing Date: February 21, 2025
Hearing Time: 10:20am
Hearing Place: Hawaii State Capitol, Conference Room 016

Re: SB 142 SD1 Relating to Insurance

I am Victor Brock, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service, or support the origination and servicing, of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation or rules, it is related only to mortgage lending and servicing.

The MBAH SUPPORTS SB 142 SD1 with recommended amendments.

The proposed Bill would allow the insured homeowner the ability to authorize the insurer to "electronically deliver the check" for the claim proceeds to a mortgagee. Although there is a definition of a "check" in HRS 480:3-104, there is no definition in that section that defines what "electronic" delivery of a check would be, nor is there a common industry definition of what "electronic delivery" of a check would be. Therefore, we recommend substitution of the phrase "remit the proceeds" after "electronically" instead of "deliver the check". Remission of proceeds could therefore include ACH transfer or wire transfer, which are known, secure, commonly used, and well-defined methods for funds transfers.

Accordingly, our recommended revisions would be as follows, with additions underlined and deletions stricken:

§431: 10E- **Payment of proceeds involving mortgaged property.** (a) When a homeowners insurance policy that covers a mortgaged property allows for the payment of proceeds by issuing a check, the insured may authorize the insurer to electronically remit the proceeds ~~deliver the check~~ to the insured's mortgagee. (b) A mortgagee in receipt of electronic delivery of a claim proceeds ~~check~~ pursuant to subsection (a) shall deliver the proceeds of the claim to the insured in accordance with the mortgage agreement and the insurance policy. ~~(c) For the purposes of this section, "check" has the same meaning as defined in section 490:3-104.~~

Thank you for the opportunity to present this testimony.

Victor Brock
Mortgage Bankers Association of Hawaii

TESTIMONY OF MICHAEL ONOFRIETTI

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Friday, February 21, 2025
10:20 a.m.

SB 142, SD1

Chair Rhoads, Vice Chair Gabbard, and members of the Committee on Judiciary, 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 submits **comments** on this measure. We commend the prior Committee Chair of Consumer Protection, Senator Jarrett Keohokalole, for taking the initiative on this measure to streamline the homeowners insurance claims process where there is a lender on the property. This bill would at the insured's request, mandate that the insurer electronically deliver a claim check to the insured's mortgagee. This way, the insured is not responsible to have the endorsed instrument delivered safely to the lender and it allows the lender to control the claim check which is intended to pay for all or part of a home repair.

In analyzing the SD1, we understand that it is not possible to electronically deposit proceeds to two unrelated parties without taking additional steps. Therefore, we respectfully ask that the language be amended to read as follows in Section 431:10E-
____(a):

“(a) When a homeowners insurance policy that coverage a mortgaged property allows for the payment of proceeds by issuing a check, the insured may authorize the insurer *in writing* to electronically deliver the check to the insured’s mortgagee *made payable only to the mortgagee*.”

With the above amendment highlighted in red, the process in which to electronically transfer monies will be streamlined for the insured.

Thank you for the opportunity to testify.



SanHi

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 20, 2025

TO: Senator Karl Rhoads
Chair, Committee on Judiciary

Senator Mike Gabbard
Vice Chair, Committee on Judiciary

FROM: Tiffany Yajima / Mihoko Ito

RE: **S.B. 142, S.D.1 – Relating to Insurance**
Hearing Date: Friday, February 21, 2025 at 10:20AM
Conference Room: 016

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee on Judiciary:

We submit this testimony in **support** of S.B. 142, S.D.1, on behalf of the Hawaii Bankers Association (HBA). HBA represents seven Hawai'i banks and one bank from the continent with branches in Hawai'i.

HBA appreciates the intent of this measure and notes that this was amended in the S.D.1 to allow an insured to authorize their insurer to electronically deliver a claim check to the insured's mortgagee when a homeowners insurance policy that covers a mortgaged property allows for the payment of proceeds by issuing a check. This measure was also amended to require a mortgagee in receipt of electronic delivery of a claim check to deliver the proceeds of the claim to the insured in accordance with the mortgage agreement and the insurance policy.

For clarity and consistency, HBA recommends the following amendments on page 1, lines 4-14 as follows:

§431: 10E- **Payment of proceeds involving mortgaged property.** (a) When a homeowners insurance policy that covers a mortgaged property allows for the payment of proceeds by issuing a check, the insured may authorize the insurer to electronically ~~remit the proceeds deliver the check~~ to the insured's mortgagee. (b) A mortgagee in receipt of electronic delivery of a claim ~~proceeds check~~ pursuant to subsection (a) shall deliver the proceeds of the claim to the insured in accordance with the mortgage agreement and the insurance policy. ~~(c) For the purposes of this section, "check" has the same meaning as defined in section 490:3-104.~~

These amendments would more clearly allow for either ACH transfer and wire transfer of insurance proceeds, both of which are secure, quick, and commonly used methods to transfer funds. ACH transactions are secure and regulated, reducing the risk of fraud

and errors. Wire transfers are processed through secure banking systems, providing a higher level of protection than paper checks. Both methods of funds transfer reduce the risk of interception or tampering compared to mailed checks.

HBA is in concurrence with the testimony offered by the Mortgage Bankers Association of Hawaii and other lenders and asks you to pass the S.D.1 with the proposed amendments.

Thank you for the opportunity to submit this testimony.



Testimony to the Senate Committee on Judiciary
Friday, February 21, 2025
Conference Room 016

Comments re: SB 142 SD1, Relating to Insurance

To: The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League (HCUL), the local trade association for 45 Hawaii credit unions, representing over 877,000 credit union members across the state.

HCUL offers the following comments regarding SB 142, Relating to Insurance. This bill allows an insured to authorize the insurer to electronically deliver a claim check to the insured's mortgagee when a homeowners insurance policy that covers a mortgaged property allows for the payment of proceeds by issuing a check, and requires a mortgagee in receipt of electronic delivery of a claim check to deliver the proceeds of the claim to the insured in accordance with the mortgage agreement and the insurance policy.

We support the intent of this bill as it attempts to protect the mortgagee when receiving the proceeds from an insurance claim. We support and agree with the amendment proposed by the Hawaii Financial Services Association.

Thank you for the opportunity to provide comments on this issue.



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

February 19, 2025

The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Members of the Senate Committee on Judiciary

Hearing Date: February 21, 2025
Hearing Time: 10:20am
Hearing Place: Hawaii State Capitol, Conference Room 016

Re: SB 142 SD1 Relating to Insurance

I am Victor Brock, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service, or support the origination and servicing, of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation or rules, it is related only to mortgage lending and servicing.

The MBAH SUPPORTS SB 142 SD1 with recommended amendments.

The proposed Bill would allow the insured homeowner the ability to authorize the insurer to "electronically deliver the check" for the claim proceeds to a mortgagee. Although there is a definition of a "check" in HRS 480:3-104, there is no definition in that section that defines what "electronic" delivery of a check would be, nor is there a common industry definition of what "electronic delivery" of a check would be. Therefore, we recommend substitution of the phrase "remit the proceeds" after "electronically" instead of "deliver the check". Remission of proceeds could therefore include ACH transfer or wire transfer, which are known, secure, commonly used, and well-defined methods for funds transfers.

Accordingly, our recommended revisions would be as follows, with additions underlined and deletions stricken:

§431: 10E- **Payment of proceeds involving mortgaged property.** (a) When a homeowners insurance policy that covers a mortgaged property allows for the payment of proceeds by issuing a check, the insured may authorize the insurer to electronically remit the proceeds ~~deliver the check~~ to the insured's mortgagee. (b) A mortgagee in receipt of electronic delivery of a claim proceeds ~~check~~ pursuant to subsection (a) shall deliver the proceeds of the claim to the insured in accordance with the mortgage agreement and the insurance policy. ~~(c) For the purposes of this section, "check" has the same meaning as defined in section 490:3-104.~~

Thank you for the opportunity to present this testimony.

Victor Brock
Mortgage Bankers Association of Hawaii

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

February 21, 2025

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
and members of the Senate Committee on Judiciary
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **S.B. 142, S.D. 1 (Insurance)**
Decision Making Date/Time: Friday, February 21, 2025, 10:20 a.m.

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA **supports the intent of S.D. 1 and supports a proposed revision** to this Bill.

This Bill: (a) allows an insured to authorize the insurer to electronically deliver a claim check to the insured's mortgagee when a homeowners insurance policy that covers a mortgaged property allows for the payment of proceeds by issuing a check; and (b) requires a mortgagee in receipt of electronic delivery of a claim check to deliver the proceeds of the claim to the insured in accordance with the mortgage agreement and the insurance policy.

We support and urge your consideration of the following proposed revision to S.D. 1 for clarification purposes:

"§431: 10E- Payment of proceeds involving mortgaged property. (a) When a homeowners insurance policy that covers a mortgaged property allows for the payment of proceeds by issuing a check, the insured may authorize the insurer to electronically
[deliver the check] remit the proceeds to the insured's mortgagee.

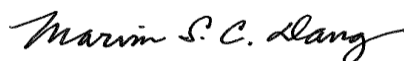
(b) A mortgagee in receipt of electronic delivery of a claim [check] proceeds pursuant to subsection (a) shall deliver the claim proceeds [of the claim] to the insured in accordance with the mortgage agreement and the insurance policy.

[(c) For the purposes of this section, "check" has the same meaning as defined in section 490:3-104.]"

As an alternative to using paper checks, both the S.D. 1 and the proposed revision will allow the option of using electronic delivery of the proceeds. In comparison to using paper checks, electronic delivery through ACH (Automated Clearing House) transfers and wire transfers of claims proceeds would have faster processing times and increased security. Consumers would benefit from this alternative.

We incorporate by reference the testimonies of the Mortgage Bankers Association of Hawaii and the Hawaii Bankers Association in support of the proposed revision.

Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

SB-142-SD-1

Submitted on: 2/18/2025 8:30:31 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

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

Comments:

Daryl Huff

Testimony on SB142 S1

Hearing Feb. 21, 2025

As a property owner who has still not received my insurance company's coverage of my claim from August 8, 2023, I strongly support SB 142 SD1.

A State Farm claims adjuster hand-delivered a check for over \$14,000 after the same high winds that led to the Lahaina disaster damaged my roof in Makakilo.

The check was the first installment on damages that exceeded \$20,000.

The check was written to my wife and I as homeowners and to the Mainland bank that holds our mortgage and the local credit union that held our HELOC.

Before it could be deposited, we were expected to send the paper check to the Mainland bank for endorsement. The bank instructed me to send it via Fedex or UPS as long as it had a tracking number and that the process of getting the check back could take a few weeks.

Because I was very aware that thousands of Maui property owners were being subjected to a similar process, I was kind of shocked at the vision of thousands of paper checks being sent to the Mainland for endorsement.

Sure enough, while I assumed the check was safely on the way via Fedex, it was somehow stolen in California and cashed in a California bank.

I learned that that had happened when I was told my check was "missing" by Fedex (when I noticed the tracking had stopped), and State Farm informed me that it had been paid to someone in California.

So far, neither State Farm, its Bank (US Bank), nor Chase (which cashed the forged check), have been willing to accept responsibility for the fraudulent cashing check and pay me for the damages to my home.

I filed complaints with all the parties, the FDIC, the CFPC, and the Hawaii Insurance Division and there is no statute that names any party as responsible for making the property owner whole in a situation like this.

Mahalo for considering SB 142,