

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 431:10C-408, Hawaii Revised Statutes,  
2 is amended by amending subsection (a) to read as follows:

3           "(a) Each person sustaining accidental harm, or ~~[such]~~ the  
4 person's legal representative, ~~[may]~~ except as provided in  
5 subsection (b), may obtain the motor vehicle insurance benefits  
6 through the plan ~~[whenever:]~~ if:

- 7           (1) No ~~[liability or uninsured motorist]~~ insurance  
8           benefits under motor vehicle insurance policies are  
9           applicable to the accidental harm;
- 10          (2) No ~~[such]~~ insurance benefits applicable to the  
11          accidental harm can be identified; or
- 12          (3) The only identifiable insurance benefits under motor  
13          vehicle insurance policies applicable to the  
14          accidental harm will not be paid in full because of  
15          financial inability of one or more self-insurers or  
16          insurers to fulfill their obligations."



# S.B. NO. 57

1           SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: *Rosslynn H. Baker*



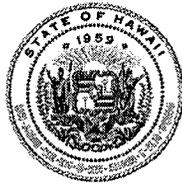
**Report Title:**

Motor Vehicle Insurance

**Description:**

Clarifies eligibility to make a claim for coverage under the joint underwriting plan.





LINDA LINGLE  
GOVERNOR  
JAMES R. AIONA, JR.  
LT. GOVERNOR

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LAWRENCE M. REIFURTH  
DIRECTOR  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE  
AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Wednesday, February 25, 2009  
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 57 – RELATING TO MOTOR VEHICLE  
INSURANCE.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”),  
testifying on behalf of the Department of Commerce and Consumer Affairs  
(“Department”).

The purpose of this bill is to limit assigned claims coverage in Hawaii Revised  
Statutes (“HRS”) § 431:10C-408(a).

The Department supports this bill and offers the following comments.

Act 14, Session Laws of Hawaii 2001, added language to HRS § 431:10C-408(a)  
that broadened the scope and cost of the assigned claims program beyond its original  
intent. See *Neumann v. Ramil*, 6 Haw. App. 377 (1986).

The motor vehicle insurance law in HRS § 431:10C-301(b) mandates that all  
drivers obtain minimum levels of coverage: \$20,000 per person with \$40,000 per  
accident in liability coverage for bodily injury, \$10,000 in property damage, and \$10,000  
per person in personal injury protection benefits.

At the insured's option, an insured may decline uninsured motorist ("UM") coverage. Since liability insurance is mandated, including a reference to liability insurance in HRS § 431:10C-408(a) is redundant.

Public policy is not served by allowing insureds who have declined UM coverage to file claims through the assigned claims program because it provides a disincentive for insureds to add this optional coverage, despite its relatively low cost.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

**SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION**

February 25, 2009

Senate Bill 57 Relating to Motor Vehicle Insurance

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm supports Senate Bill 57 Relating to Motor Vehicle Insurance.

We have been informed that insured drivers who have turned down uninsured motorists coverage, who have subsequently been hit by an uninsured driver, are claiming uninsured motorist coverage through the assigned claims program. This was never the intent behind the amendment. While the number of claims has been relatively small, this was never the intent of the assigned claims program.

Enacted in 2001 in Act 14, the additional wording has resulted in claims for uninsured and underinsured motorist coverage through the joint underwriting plan. The following table shows the number of applications received for the Assigned Claims Program for the past three years.

<u>Year</u>	<u>Total Applications</u>	<u>Assigned Applications</u>	<u>UM/UIM Issue</u>
2005	102	74	8
2006	107	86	2
2007	84	73	17

Each UM/UIM assignment represents an exposure of up to \$20,000.

The result is that a person who has insurance coverage is now able to decline or select a lower uninsured or underinsured motorist coverage and seek coverage through the Assigned Claims Program and recover for these benefits which are then placed as an additional cost on other insured drivers.

We understand that there are objections raised by the trial lawyers with regards to the amendment in the bill. In the interest of compromise we are proposing that the amendments in the bill be deleted and a much simpler amendment be inserted to read as follows:

“Notwithstanding the foregoing, a named insured that has rejected in writing the offer of uninsured motorist coverage under a motor vehicle insurance policy shall not be entitled to an assigned claim under this section.”

We have attached a proposed SD 1 for your consideration incorporating this amendment.

Thank you for the opportunity to present this testimony.

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4 sustaining accidental harm, or such person's legal  
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6 obtain the motor vehicle insurance benefits through the plan  
7 whenever:

8           (1) No liability or uninsured motorist insurance benefits  
9           under motor vehicle insurance policies are applicable  
10           to the accidental harm;

11           (2) No such insurance benefits applicable to the  
12           accidental harm can be identified; or

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