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MEMORANDUM 2025-9A

To: All Motor Vehicle Insurers

From: Scott K. Saiki, Insurance Commissioner SKS

Subject: Insurance Requirements for Peer-to-Peer Car-Sharing

The purpose of this memorandum is to clarify who is responsible for providing primary motor vehicle insurance for a shared car pursuant to Hawaii Revised Statutes (“HRS”) § 431:10C-802.

HRS § 431:10C-802(a) requires a peer-to-peer car-sharing program (“Program”) to “ensure” that there is primary motor vehicle insurance coverage during the car-sharing period:

A peer-to-peer car-sharing program shall **ensure** that during each car-sharing period, the shared car is insured under a motor vehicle insurance policy . . .”

(Emphasis added).

The term “ensure” requires the Program to “make certain” that primary coverage exists. It does not require the Program to insure the vehicle. If the Legislature had intended to designate the Program as the party responsible for providing primary insurance coverage, it would have done so through exacting language, as it did with respect to rental car companies and transportation network companies (TNC). See HRS § 431:10C-303.5 (“A U-drive motor vehicle insurance policy **shall be primary** . . .”) (emphasis added); HRS § 431:10C-703(b) (a TNC “**shall maintain** a primary motor vehicle insurance policy” during specified time periods) (emphasis added).

As such, peer-to-peer car-sharing programs must ensure that each shared car has the primary insurance coverage required under HRS § 431:10C-802(a).

This conclusion is also supported by reading subsections (a) and (b) together. HRS § 431:10C-802(b) provides that if the insurance maintained by the shared car owner or shared car driver pursuant to HRS § 431:10C-802(a) has lapsed, excludes coverage, or does not provide the required coverage, then the Program is required to provide the coverage. Subsection (b) thus contemplates that the Program may not necessarily be the initial primary insurer.

In summary, HRS § 431:10C-802 requires the parties to a peer-to-peer car-sharing arrangement to enter into a car-sharing program agreement (“Agreement”). The Commissioner determines that the Agreement must clearly identify and designate the party that is responsible for providing primary motor vehicle insurance coverage pursuant to HRS § 431:10C-802(a). Any ambiguity should be construed against the Program.<sup>1</sup>

Please contact the Insurance Division at [inslegal@dcca.hawaii.gov](mailto:inslegal@dcca.hawaii.gov) or (808) 586-3040 if you have any questions.

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<sup>1</sup> The Commissioner notes that in furtherance of the State of Hawaii’s purpose to insure motor vehicles, the Program is expected to disclose to the shared car owner and driver in writing any insurance exclusions that may apply during a car-sharing period. *See* H.R.S. § 431:10C-803.