



HEADQUARTERS	WASHINGTON OFFICE
3601 VINCENNES ROAD	122 "C" STREET, NW
INDIANAPOLIS, INDIANA 46268	SUITE 540
TELEPHONE: (317) 875-5250	WASHINGTON, D.C. 20001
FAX: (317) 879-8408	TELEPHONE: (202) 628-1558
WWW.NAMIC.ORG	FAX: (202) 628-1601

September 25, 2012

The Honorable Mike Kreidler
Insurance Commissioner
Office of Insurance Commissioner
Olympia, Washington 98504

sent via email to:
JimT@oic.wa.gov

RE: NAMIC's Written Comments in Opposition to the "Revised" Proposed OIC Rule 2011-17, Proposed Regulation on Rate Stability Rules

Dear Commissioner Kreidler:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written comments to the Office of the Insurance Commissioner (OIC) on the above captioned "revised" proposed rate stabilization/premium capping regulation.

NAMIC is a full-service national trade association with more than 1,400 member companies that underwrite approximately 43 percent (\$196 billion) of the property & casualty insurance premium in the United States. NAMIC membership includes four of the seven largest property/casualty insurance carriers in the nation, and every size regional, national and state specific property & casualty insurer, including hundreds of farm mutual insurance companies. NAMIC has 110 member insurance carriers doing business in the state of Washington, who write approximately 31% of the property/casualty insurance business in the state.

To start with, NAMIC commends the OIC for listening to insurer concerns about the previously proposed consumer disclosure/notice requirement provision and for removing this extraordinarily burdensome proposed notification requirement. We also appreciate the hard work of your staff and their belief that this proposal is in the best interest of Washington consumers. We remain, however, concerned that the rule is not in the best interest of Washington consumers or insurers who wish to offer consumers an ability to mitigate premium increases. We will strive to make this comment illustrative of the bases for our concerns and not duplicative of our previous comments.

1) The proposed rate stabilization rule is unnecessary.

The OIC has tendered no evidence or data to support the conclusion that there is a problem with the way insurers currently use rate stabilization plans to address consumer needs. Moreover, the OIC has also failed to demonstrate that the proposed regulatory provisions in the contemplated rate stabilization rule are necessary to protect consumers from any particular rating consequence associated with an insurer's use of a rate stabilization plan.

2) The proposed rate stabilization rule could actually harm insurance consumers.

Although the proposed rate stabilization/premium capping regulation is well-intended by the OIC, the “real world consequences” of the proposal are anti-consumer. In effect, the unnecessarily restrictive nature of the proposed regulation could be harmful not beneficial to the consumer. Rate stabilization plans are used by insurers to protect consumers from sudden and significant premium changes that may cause an economic hardship for consumers, who live within a fixed household budget. In a way, rate stabilization is a form of premium impact smoothing provided by insurers both to enhance their own customer retention as well as to help mitigate the short-term economic impact of sudden premium changes on their consumers.

Conceptually speaking, rate stabilization by insurers is analogous to a cable or satellite TV company spreading out a rate increase over an extended period of time and delaying full implementation of a price change so as not to shock and disrupt the financial affairs of the consumer. For example, if a \$210 increase in an annual cable bill or insurance premium is required and the vendor or insurer is willing to spread-out the rate increase over 3 years (\$70 per year), the consumer has, in effect, received a short-term economic subsidization of their rate by the vendor or insurer. Everyone knows that a person obligated to pay an expense today receives a financial benefit from the one owed the expense by being allowed to delay the full payment of the expense to a later date. It is a simple “time-value of money” proposition. This is acutely beneficial to insurance consumers, who have the legal right to reject any subsequent proposed rate increases by taking their business to another insurer at the end of the policy term.

NAMIC believes that the OIC should be facilitating and encouraging insurers to use rate stabilization plans as a pro-consumer mechanism for gradually phasing-in premium changes in a manner that minimizes the economic burden to consumers, which is especially important in today’s world of new economic challenges for many consumers. The proposed rate stabilization regulation is excessively and unnecessarily prescriptive and restrictive, which will only hinder and discourage some insurers from offering consumers the benefit of a rate stabilization plan.

3) The proposed rate stabilization rule will increase rating costs and administrative expenses associated with insurers offering consumers the benefits of a rate stabilization plan.

NAMIC is concerned with the following provisions in the proposed regulation:

- a) **Section 4 of WAC 284-24-130 states that “[r]ate stability rules that do not satisfy the requirements of this section are considered to be unfairly discriminatory and in violation of RCW 48.19.020.”**

NAMIC is concerned that this section is unnecessary, ambiguous, and overly-broad. The way the proposed regulation is worded, even an unintentional, merely technical or

clerical error in the insurer's rate stabilization plan, or a reference to rate stability outside of the circumstances defined in Section (1) of the proposed regulation is strictly deemed to be unfairly discriminatory and subjects the insurer to the fines/penalties set forth in RCW 48.19.430.

NAMIC recommends that this section be removed from the proposed regulation or revised to clarify that the subsection only applies to rate stability rules as defined in Section (1) and the use of rate stability outside of the circumstances defined in Section (1) shall not be deemed per se as being unfairly discriminatory. For drafting purposes, NAMIC suggests removing the "*are considered to be unfairly discriminatory ...*" language and replacing it with "*may be considered unfairly discriminatory*"

Additionally, NAMIC believes that this proposed section exceeds the regulatory authority of the OIC, because it is an ultra vires attempt to expand the scope of RCW 48.19.020. The OIC has failed to offer any evidence to support its contention that *any* failure to comply, even a de-minimus technical violation of the proposed rule and its complex rating requirements, makes the insurer's rate stability rule *per se* unfairly discriminatory.

b) Sections (5) through (11) would impose new accounting, administrative, and technology burdens on insurers, especially smaller insurance carriers, that may be impossible to comply with or economically prohibitive to implement.

NAMIC is concerned that the proposed rule imposes impractical and/or economically prohibitive requirements that many insurers will not be able to comply with. Specifically, these proposed provisions will create unnecessary risk reclassification, accounting, rating and underwriting burdens that will make it much more difficult and challenging for insurers to offer rate stability programs to their consumers.

- In regard to Sections (5)(a), (7), and (9), current law does not require insurers using rate stability rules to have to re-file their rate stability plan/process once it has been approved by the OIC. In other words, it becomes an ongoing part of the filed rating plan in the company's manual and unless revised, the company does not have to re-file the rate stability plan with the OIC and provide a detailed explanation as to why the continuation of the rate stability plan conforms to the law and is necessary. Having to re-file each and every time will create an unnecessary administrative burden and expense for insurers and the OIC. NAMIC respectfully requests that the OIC explain what reasonable regulatory purpose is served by requiring a new filing and new justification for the use of a rate stability plan previously approved by the OIC.
- In regard to Section (6), NAMIC is concerned that the phrase "that makes the rate stability rule *necessary*", is excessively restrictive and detrimental to the best interest of consumers. So long as an insurer's rate stability plan is *appropriate* and in the best interest of insurance consumers, an insurer should not have to worry about how the OIC is going to define "necessary" for rate filing purposes and regulatory sanctions.

- In regard to Section (8), NAMIC is concerned that the proposed rate variable differentiation requirement could create serious compliance exposure problems for carriers and force some carriers to abandon the use of rate stability plans altogether. Some insurers do not have policy writing systems with the sophistication to accomplish this proposed rate variable differentiation in a cost-effective manner. Therefore, this proposed section could adversely impact market competition.

Moreover, NAMIC doesn't understand why this proposed rate variable differentiation is necessary from a regulatory and/or consumer protection standpoint. Differentiating between rate variables is meaningless and potentially confusing to a consumer. For example, if a customer's premium is going up 40% due to a combination of overall rate increases and something the consumer may have initiated, such as moving into a higher rated territory, distinguishing the impact of one rate variable versus the other still leaves the customer with a 40% increase. NAMIC believes that the proposed rate variable differentiation requirement in Section (8) is inconsistent with the very concept of rate stability, i.e. to offer consumers the benefit of phased-in rate changes. Restricting the application of a rate stability plan to certain portions of the premium change and restricting its application to certain rating variables creates unnecessary rate filing complexity and expense, without any corresponding benefit to the insurance consumer.

- In regard to Section (10), NAMIC is concerned that this section establishes rate stability eligibility and application thresholds that are arbitrary, unnecessary, and detrimental to vigorous market competition. NAMIC believes that a rate stability rule that does not allow insurers the flexibility to offer rate stability for a premium change that is less than 10% per year and/or that does not allow insurers to be competitive in how they structure their rate stabilization percentage and the duration of the rate stabilization plan is overly restrictive and inconsistent with the best interest of insurance consumers.
- In regard to Section (11), NAMIC is concerned the proposed "actuarially sound manner" standard may be entirely unworkable for some insurers for the same reasons articulated in response to Section (8), i.e. that some carriers may not have the policy writing and management information systems capabilities necessary to comply with this complex accounting requirement. In effect, the OIC is requiring insurers to aggregate the exact dollar impact of the rate stability on each allowed rating variable and every insurance policy to which it will apply, and then compare the total dollars of the rate stability plan to what would have been the total dollars of the change absent the application of the rate stability plan, and the difference would then have to be accounted for in an "actuarially sound manner" in the filing, even though the impact of overall premium levels is generally addressed in the actuarial methodology of "premium trending".

In conclusion, NAMIC believes that the proposed rate stabilization rule, although better than the previous draft regulation, is still unduly restrictive and unnecessary in light of the current prior approval rate application process that allows for a case by case evaluation of an insurer's

proposed rate stability plan. NAMIC believes that the case by case evaluation currently utilized by the OIC offers insurers flexibility in using rate stabilization and consumers choices in the marketplace. NAMIC fears that market competition will likely be decreased as many insurers will be unable to implement rate stabilization programs due to the excessively prescriptive nature of the regulation and the administrative burdens and cost associated with compliance with the proposed rule. Decreased use of rate stabilization programs will needlessly disadvantage many insurance consumers.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you have any questions about NAMIC's written comments.

Respectfully,

A handwritten signature in black ink, appearing to read "Christian John Rataj". The signature is fluid and cursive, with the first name "Christian" being the most prominent.

Christian John Rataj, Esq.
NAMIC Western State Affairs Manager