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Representative Tom Anderson, Chair
Alaska House of Representatives
House Labor and Commerce Committee
State Capitol, Room 408
Juneau, AK 99801-1182

April 11, 2006

Sent via email to: Representative_Tom_Anderson@legis.state.ak.us
Representative_Mike_Chenault@legis.state.ak.us
Representative_Max_Gruenberg@legis.state.ak.us

Re: NAMIC's Letter of Opposition to HB 350, *Unfair Claim Settlement Practices*

Dear Representative Anderson:

The National Association of Mutual Insurance Companies (NAMIC) respectfully submits these written comments in opposition to HB 350, *Unfair Claim Settlement Practices*.

NAMIC is a full-service national trade association with more than 1,400 member companies that underwrite 43 percent (\$196 billion) of the property and casualty insurance premium in the United States. NAMIC has 66 member insurance carriers writing business in the state of Alaska, who write approximately 34% of the property and casualty insurance business in the state.

The National Association of Mutual Insurance Companies is opposed to HB 350 for the following reasons:

Creating a civil cause of action is unnecessary:

NAMIC is concerned that this monumental change in state law is being entertained when there has been no evidence offered to support the contention that the current version of the Unfair Claim Settlement Practices Act, AS 21.36.125, has failed to properly regulate and enforce lawful insurance settlement practices and/or provide claimants with an appropriate venue for the redress of their insurance complaints.

Creating a private cause of action should not be undertaken without first requiring the proponents of the bill to demonstrate, with statistical data, not just a few anecdotal examples, that a private cause of action is necessary to remedy an "actual" and "significant" claim settlement practices problem in the state that cannot be addressed by the Department of Insurance.

When one considers the actual claim settlement data, the number of claim settlement complaints filed with the Alaska Department of Insurance is quite small in relation to the

total number of claims settled by insurance carriers in the state. Thus, the proponents of HB 350 should be required to prove that there is a “real” need for the proposed legislation.

HB 350 would likely cause insurance rates to increase:

NAMIC is concerned that the proposed legislation will force insurance carriers to expend a greater percentage of their insured’s premium dollars on litigation expenses. Basic economic principles dictate the conclusion that as insurance company legal defense expenditures rise, so too must the company’s insurance rates in order to pay for the costs associated with the litigation. Consequently, NAMIC requests that the state legislature consider the impact HB 350 could have on availability and affordability of insurance.

Unreasonable usurpation of Insurance Commissioner’s regulatory prerogative:

The vast majority of states in the country have delegated the sole responsibility for evaluating, investigating and remedying consumer complaints about unfair claim settlement practices to the state’s Department of Insurance. This approach is reasonable, cost-effective and consistent with the regulatory function of the department.

Creating a private cause of action is unlikely to have any meaningful impact upon on how insurance carriers adjust and settle insurance claims. The state’s Department of Insurance is already empowered to use a wealth of different regulatory sanctions to discipline carriers that do not comply with state insurance law. Thus, HB 350 is unlikely to do anything other than increase the earnings of trial lawyers, who will now have another “procedural chip” for negotiating settlements, i.e. threaten a punitive damages lawsuit to secure a larger settlement.

Legislation could lead to the filing of groundless and frivolous lawsuits:

NAMIC is concerned that HB 350 will lead certain plaintiffs to file groundless, baseless and frivolous lawsuits in hope of coercing insurance companies into settling claims that do not financially merit an expenditure of policyholder premiums on litigation expenses. This misuse of the legal process could clutter the trial dockets of the state courts and adversely impact the judicial system’s ability to timely adjudicate meritorious causes of action.

For the aforementioned reasons, NAMIC respectfully requests that the House Labor and Commerce Committee **vote against HB 350.**

Respectfully submitted,

Christian John Rataj, Esq.
NAMIC Western State Affairs Manager

