

March 7, 2017

Colorado State Legislature
Senate Judiciary Committee

*sent via email to:
Conrad.Imel@state.co.us*

RE: SB 191, Judgment Interest - NAMIC's written testimony in support

Dear Senator Gardner, Chair; Senator Cooke, Vice Chair; and honorable members of the Senate Judiciary Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the Senate Judiciary Committee for the March 7, 2017, public hearing.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 163 members who write property/casualty in the State of Colorado, which represents 45% of the insurance market.

The proposed legislation would eliminate the interest rate floor of 8% on the current interest rate on post-judgment interest which is 2% over the Kansas City discount rate with a floor of 8%. The bill also states that the judgment interest rate for personal injury damages claims shall be the same as the post-judgment interest rate, instead of the current fixed interest rate of 9%.

Thank you for providing NAMIC with an opportunity to submit written testimony in support of SB 191. NAMIC respectfully submits the following comments in support of the proposed legislation:

- **The proposed legislation will promote fair and just civil judgments for *all* litigants** – As a general equitable principle and legal doctrine, a plaintiff should receive *no less and no more* than what they need to be restored to their pre-injury condition, and a defendant (except in extraordinary cases where punitive damages are legally appropriate per statute) should be required to pay *no less and no more* than what is necessary to properly compensate the plaintiff for his/her actual damages. The current judgment interest rate of 9% for personal injury claims and the post-judgment interest rate with a floor of 8% both provide claimants with an *economic windfall*, because the plaintiff can recover an interest rate on their

damages, which far exceeds what the plaintiff could actually earn if he/she invested the damages money in a traditional financial investment. Claimants seeking a legal redress of their injury should be *fully compensated* for their loss, but they should not be allowed to *profit* from their claim.

- **SB 191 will help discourage the filing of frivolous lawsuits and needlessly protracted litigation, which are avoidable insurance cost-drivers that adversely impact insurance rates for all consumers and businesses** – By lowering the civil judgment interest rate to a financially appropriate level, there will be less of an economic incentive to file questionable legal claims that take years to be fully adjudicated. Under the current law, there is a clear economic incentive for plaintiffs to let their case slowly meander through the judicial system, because their damages claim increases each year at a guaranteed interest rate – one that clearly beats conventional financial investment products. Such a manipulative practice creates needless congestion of court dockets and increases legal defense costs that ultimately affect the price of goods and services for all consumers.
- **The set current judgment interest rate for personal injury claims is based upon a now arbitrary number and has no logical connection to the world of interest rates** – The proposed legislation would tie the judgment interest rate for personal injury claims to an annually adjusted rate that reflect current interest rates used by banks and lenders. An annually adjustable interest rate index makes sense and allows for the civil judgment interest rate to *reflect the actual financial conditions of the country at the time the judgment is entered*. Moreover, with the “plus 2%” provision in the bill, the claimant is guaranteed to receive an interest rate that is, at least, equal to if not greater than the most competitive investment products on the market.

For the aforementioned reasons, please **VOTE YES on SB 191, because the legal system is supposed to promote fair and just civil judgments, not excessive ones.**

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC’s written testimony.

Respectfully,



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