

March 14, 2017

Colorado State Legislature
Senate Business, Labor, and Technology Committee

sent via email to:
Jeanette.Chapman@state.co.us

**RE: SB 204, Concerning the Improper Denial of Property and Casualty Insurance Claims -
NAMIC's written testimony in support**

Dear Senator Tate, Chair; Senator Neville, Vice Chair; and honorable members of the Senate Business, Labor and Technology Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the Senate Business, Labor, and Technology Committee for the 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.

NAMIC is pleased to support SB 204, because it is a pro-consumer protection bill that clarifies the law on improper denials of property and casualty insurance claims. The current law has been plagued by a legal interpretation that third-party vendors providing professional services to an insurer's policyholder as a result of property damages or injuries to the policyholder associated with a pending insurance claim has legal standing to independently assert a claim against the policyholder's insurer for double damages and attorney's fees for an alleged mishandling of the policyholder's insurance claim.

The proposed legislation clarifies and resolves this legal ambiguity by removing the phrase that has been the subject of misinterpretation to the detriment of insurance consumers. The clear purpose and intent of the current law on improper claims denials is to provide the first-party policyholder with a legal cause of action, with statutory enumerated damages, that the policyholder may assert against their insurer.

The current legislation was never intended to create a legal cause of action for a non-contracting party (third-party professional services vendors) to assert independently against the policyholder's insurer. The third-party professional services vendor has no contractual relationship with the insurer and there is no contractual or statutory duty owed by the insurer to the third-party professional services vendor that would support the public policy argument that

double damages and attorney's fees should be award for the third-party professional services vendor and against the insurer to punish the insurer for failing to comply with the terms of their insuring agreement with the policyholder.

NAMIC supports SB 204, because it will protect policyholders, who should not have to worry about their third-party professional services vendor asserting a competing and potentially conflicting claim against their insurer for an alleged breach of the insurer and policyholder insuring agreement.

Additionally, the proposed legislation is also pro-insurance consumer, because will assist insurers in their reasonable efforts to control insurance rate cost-drivers, like legal defense costs. The current law, which has been interpreted to allow third-party professional services vendors to assert claims for double damages and attorney's fees, has led to costly litigation abuse, because the interpretation of the ambiguous provision in the statute provides third-party professional services vendors with an unfair litigation tool to coerce insurers into paying inflated service contract repair costs. In effect, the third-party professional service vendor can threaten an expensive double damages and attorney's fees legal action against the insurer if the insurer disputes an unreasonable repair cost bill.

NAMIC also supports the provision in the bill that requires that the policyholder provide the insurer with written notice of their improper denial of claim based lawsuit. NAMIC believes that this notice requirement will provide the parties with an additional pre-litigation opportunity to settle the disputed claim in a cost-effective and amicable manner, to the benefit of the policyholder and the insurer.

For the aforementioned reasons, please **VOTE YES on SB 204.**

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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