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August 5, 2005

*Via E-mail*

Tim Mullen  
Director of Market Regulation  
National Association of Insurance Commissioners  
2301 McGee Street  
Kansas City, MO 64108-2662

Re: *NAIC Claims History Database Issues*

Dear Tim:

On behalf of the National Association of Mutual Insurance Companies (NAMIC) and its more than 1,400 member companies, we thank you for the opportunity to provide comments on the inquiry of the Market Regulation and Consumer Affairs (D) Committee into claims history database issues. We are providing responses to the questions that were distributed several weeks ago:

1. *Do you support the NAIC pursuing the development of a model act?*

Response: No, NAMIC does not believe it is necessary for the NAIC to develop a model act. Most jurisdictions have already deliberated over the issue and creation of a model law by the NAIC at this point would be irrelevant.

Statutes or regulations addressing the use of property claim databases have been adopted in more than one third of the states in the past several years. Many other states have considered similar legislative or regulatory change but have rejected such change. As of last month, a national model developed by the National Conference of Insurance Legislators (NCOIL) became available for introduction in any remaining state that wishes to institute regulation of the use of claims history data.

For the NAIC to attempt to develop a model law now would accomplish little of value. Such a model would result in "competing models", would cause confusion across the states and, in view of action already taken by a majority of states, would not likely be adopted in more than a few jurisdictions.

*(a) If yes, which model do you believe the NAIC should use as a starting point?*

*(b) If no, do you recommend the NAIC take any other action on the use of claims history information for underwriting and rating?*

Response: No, NAMIC does not perceive any necessity for the NAIC to take additional action on the use of claims history information for underwriting and rating.

As set forth in our response to question #1, NAMIC does not believe that development of a model law by the NAIC will serve any useful purpose at this time. That being said, NAMIC questions what other “additional action” might even be contemplated by the NAIC.

As NAMIC understands the mission of the NAIC, one of its primary reasons for existence is for development and promotion of model laws and regulations as a means for enhancing uniformity in insurance regulation across the states. However, in cases where model laws are not appropriate because the states have already spoken as to a particular issue or because an applicable model law has been developed elsewhere, “additional actions” by the NAIC – such as statements of principles, white papers, best practices, guidelines and similar pronouncements – only serve to confuse the issues and muddy the waters for the regulators and those being regulated.

Additionally, for the NAIC to take any action encroaching upon the ability of insurers to underwrite and rate their own risks in an environment that should be looking to less regulation, not micromanagement of essential company operations, only invites a less competitive marketplace and less choice for consumers.

2. *If the NAIC pursues additional action, what issues do you believe should be addressed (use of inquiries, use of closed without payment claims, consumer disclosure, etc.)?*

Response: Various states have chosen to address specific issues in their laws or regulations that appear to be of importance to them. In developing its own model law, NCOIL chose to include provisions relating to use of inquiries, property losses occurring under prior ownership and disclosure to consumers but, at the same time, chose not to address other issues such as weather-related claims.

NAMIC does not support any action by the NAIC aimed at addressing these issues but rather encourages individual regulators to work with their state legislators in crafting statutory changes, if any such changes are deemed necessary, that will incorporate those issues deemed critical to the particular state.

3. *In reviewing the models, are there any particular provisions you believe to be especially beneficial or especially problematic? If so, why?*

Response: Of the model laws and enacted legislation presented for review, NAMIC does not find any of them to be especially beneficial. While the NCOIL model does present perhaps the least problematic alternative, NAMIC does not suggest that the NAIC adopt the NCOIL model, or any other model law or enacted law, as its own. NAMIC again stresses that, in its opinion, there is no need for the NAIC to develop or adopt any model law on the use of property claims data at this time.

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Please contact me by telephone at 317-875-5250 or by e-mail at [mharrison@namic.org](mailto:mharrison@namic.org) if you have questions or if I can provide further information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marsha Harrison", with a long, sweeping horizontal line extending to the right.

Marsha Harrison  
Regulatory Affairs Counsel