

Hawaii State Legislature
House Committee on Consumer Protection and Commerce
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 15, 2016

Filed via electronic testimony submission system

NAMIC's Position:

**HB 1991, Homeowners' Insurance claims adjusting - Opposed
Proposed HB 1991, HD-1, Health Savings Account – No position**

Dear Representative Angus L.K. McKelvey, Chair; Representative Justin H. Woodson, Vice Chair; and honorable members of the House Committee on Consumer Protection and Commerce:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 17, 2016, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,300 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$208 billion in annual premiums, accounting for 48 percent of the automobile/homeowners market and 33 percent of the business insurance market. NAMIC has 69 members who write property/casualty and workers' compensation insurance in the State of Hawaii, which represents 30% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC's written testimony pertains only to the current draft of the bill, HB 1991, which pertains to homeowners' insurance claims adjusting. NAMIC is opposed to HB 1991, because it will: 1) needless increase claims adjusting costs which could adversely impact affordability of homeowners' insurance; 2) make the claims adjusting process unnecessarily contentious; and 3) delay the timely settlement of insurance claims to the detriment of policyholders.

To start with, NAMIC is concerned that the proposed legislation would effectuate a radical departure from the well-established practice of having insurance claims adjusted by the insurer, with any

disagreements as to insurance coverage, causation, and damages being handled, after the selection of the adjuster by the insurer, and the initial processing and adjusting of the claim. This process has worked to the benefit of insurance policyholders, because the vast majority of insurance claims are timely settled to the satisfaction of the policyholder. The proposed requirement that the homeowner's insurance adjuster be selected by mutual agreement of the insurer and policyholder is unnecessary and is premised upon the unfounded supposition that the claims adjusting process is inevitably and unavoidably contentious from the start. The evidence clearly does *not* support such a belief. The number of consumer complaints filed annually with the Division of Insurance is infinitesimal in comparison to the number of claims filed by policyholders with their homeowners' insurance carrier and settled by the insurer in a fast, fair and friendly manner.

NAMIC is also concerned that the proposed requirement that disagreements over the selection of the adjuster be submitted to the commissioner, arbitration, or the circuit court for resolution is likely to delay the timely settlement of insurance claims to the detriment of policyholders and may lead to additional damages to the insured's residence as a result of the parties getting "bogged down" in a dispute over the selection of the adjuster.

Moreover, the proposed requirement is ambiguous in that it doesn't specify who determines whether the claims adjuster selection dispute is decided by the commissioner, an arbiter, or a circuit court judge. The proposed requirement also doesn't address the legal standard of review to be used by the professional resolving the adjuster selection dispute, or the appeals process for challenging the ruling of the commissioner, arbiter, or circuit court judge. NAMIC is concerned that this provision is going to needlessly increase claims and litigation costs for *both* parties to the detriment of everyone involved in the process.

Finally, NAMIC is concerned that the provision pertaining to the "settlement offer" fails to take into consideration that contract law requires that a settlement offer be accepted by the parties (policyholder and insurer). The language of this provision arguably creates a duty on the insurer to pay the settlement offer as ordered by the mutually selected claims adjuster, when said claims adjusting process is not a legally binding adjudication of the claim. Both the policyholder and insurer should have the right to challenge the adjuster's evaluation of the claim and calculation of damages.

For the aforementioned reasons, NAMIC respectfully requests that the committee VOTE NO on HB 1991, as the bill is currently drafted. NAMIC has no position on HB 1991, HD-1, Health Savings Accounts.

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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