

Hawaii State Legislature
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

March 16, 2016

Filed via electronic testimony submission system

RE: SB 2684, SDI, TNC Insurance Requirements bill - NAMIC's Written Testimony in Support of Legislation for Committee Hearing

Dear Representative Henry J.C. Aquino, Chair; Representative Matthew S. LoPresti, Vice Chair; and honorable members of the House Committee on Transportation:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the March 16, 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.

NAMIC's members appreciate the importance of business innovation and we support the development and growth of transportation network companies (TNCs) and other "sharing-economy" business endeavors.

NAMIC believes that TNCs, like all other business operations, need to take full responsibility for the legal liability exposure and public safety risks posed by their business activities. Since the TNCs are engaged in a new form of commercial transportation, it is reasonable and appropriate for them to be required by state law to be responsible for all the commercial transportation liability issues created by their business activities.

The TNC commercial transportation model requires TNC drivers to transport TNC passengers for hire in the TNC driver's private vehicle. Since the TNC driver's activities are clearly commercial in nature, the TNC driver's private passenger automobile insurance policy is most likely not going to provide a duty to defend or any insurance coverage for the commercial transportation use of the TNC driver's personal automobile. Consequently, the TNC commercial transportation model creates an "insurance coverage gap" which poses a legal liability exposure problem and public safety risk for the TNC service driver, TNC passengers, and the general public.

State Legislatures throughout the nation have been passing pro-consumer protection legislation to address this "insurance coverage gap", in a way that is pro-business innovation, pro-consumer-protection, and pro-business responsibility. State elected officials have focused their attention upon making sure that there is a clear demarcation between commercial auto activities and private passenger auto activities, so that TNC activities don't become an unnecessary insurance rate cost-driver for private passenger auto insurance consumers.

Although NAMIC does support SB 2684, SD1, because it provides clarity as to when a driver is engaged in a TNC commercial transportation activity, spells out in a clear manner the TNC primary insurance coverage requirements, preserves the longstanding legal distinction between private passenger auto insurance coverage and commercial auto insurance coverage, and provides for a number of pro-consumer protection disclosures, NAMIC recommends that the bill be amended to conform to the National Conference of Insurance Legislators' (NCOIL's) TNC Model Act.

The NCOIL Model Act was created after extensive evaluation, thoughtful debate, and reasoned compromise by a broad cross-section of interested stakeholders, including representatives of the national insurance trades associations, multi-state insurance companies, the TNC industry, and consumer protection groups.

NAMIC believes that the NCOIL Model, which is currently being considered by a multitude of state legislatures, best promotes "responsible" transportation business development, preserves the availability and affordability of private passenger auto insurance coverage, and facilitates motor vehicle consumer safety. Since the TNC business endeavor and operational model is a national phenomenon, which reaches beyond the boundaries of any one state, it makes sense for the Hawaii State Legislature to adopt a legislative approach that promotes uniformity between and among the states.

Additionally, NAMIC supports the following proposed amendment to §431:10C-D:

"The insurance requirements of this section may be satisfied by insurance placed with an insurer licensed under part II, article 3 of chapter 431."

This proposed amendment promotes business innovation and competition in the insurance marketplace, which benefits insurance consumers. The current language of the proposed legislation could result in limited insurance products available to address TNC insurance coverage requirements.

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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