2017 State Legislative Review

July 10, 2017

Presentation by: Joe Thesing, Vice President-State Affairs
Asking Questions

![Image of a webinar interface with an area to enter a question for staff.]
Anti-Trust Policy

Before we begin our meeting, please keep in mind that numerous state and Federal laws absolutely prohibit the exchange of information among competitors regarding price, refusals to deal, or agreements to proceed in certain anti-competitive respects, and that no such exchange of this information is either sanctioned by NAMIC or will be permitted during our meeting. This is a very serious matter and your cooperation will be appreciated.

Although The McCarran-Ferguson Act has given a limited exemption to the insurance industry from certain otherwise prohibited activities, board members should realize that the exemption provided companies has definite limits and that NAMIC itself, as a trade association, has no such exemption. Activities, both in and out of the meeting room, are exempt only if they: a) involve the business of insurance; b) are regulated by state law; and c) do not constitute an agreement to boycott, coerce and/or intimidate or an act to further any of the three. Please note that legislative activities are protected by the 1st Amendment and are generally not subject to anti-trust laws.

Conviction upon violation of the anti-trust laws (Sherman Act, Clayton Act, FTC Act and Robinson-Patman Act) will result in mandatory jail sentences, fines or both, even for first offenders who are otherwise leaders in their communities.

Beside discussions involving any possible insurance market boycott, coercion and/or intimidation, which are never protected under any circumstances, here are some practices which you should not initiate nor participate in as they may expose you, your company, and NAMIC to possible anti-trust investigation and/or prosecution by the FTC or Justice Department. Discussing any of the following:

- Price, profits, commission, reinsurance or any other cost components and elements.
- Rates or the stabilizing of rates or other terms or conditions of any products to be offered for sale.
- Underwriting criteria with an eye toward standardizing.
- A market division plan without a state law covering the plan, including discussions of type or products to be offered, customers to whom insurance products may be sold or the territories in which they may be sold.
- Matters that would adversely affect availability of insurance or services to the public.
- Future rate plans including actuarial projections.
- “Fair” profit levels.
- Keeping access to NAMIC membership unduly restrictive or denying unique services of NAMIC to nonmembers.
- Developing “standards” for company operations.
- Trading information on bidding for office equipment and supplies or agreeing to collectively refrain from purchasing any equipment, services or supplies from any supplier.
- Suggesting a certain credit policy.
- Referring to any company or agency by specific name in any example you may give as an illustration during our discussions.

If any of the above occurs, you should object, have your objection noted in the minutes of any meeting and, if the discussion or practice continues, leave the room. Further, the prohibitions apply to discussions in an informal or social setting, not just regularly scheduled meetings.

If you see any prohibited practices occurring in any NAMIC meeting or social event, please mention your concern to an officer of the Association.
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- Drones
- Autonomous Vehicles
Our Advocacy Process

- NAMIC state advocacy staff makes recommendations on National State Legislative Agenda.
- NAMIC State Affairs Committee reviews and approves staff recommendations.
- NAMIC Board of Directors approves agenda at its December board meeting.
2017 National State Legislative Agenda

- Rate Modernization & Eliminating Redundant Statutes
- Underwriting Freedom
- “Regulation Survey” & Regulatory Overreach
- Civil Justice Reform
- Natural Disasters & Coastal Issues
- Solvency (HCA/ERR), Corporate Governance & Credit for Reinsurance
- Transportation Network Companies & the “Shared Economy”
- Auto Insurance Cost Drivers
- Emerging Technology
Targets of Opportunity

- Mutuality
- Workers’ Compensation Reform
- No Fault Auto Insurance
- Depreciation of Costs
- Farm Mutual Modernization
2017 Highlights
Positive Enactments

- **Asbestos Trust Transparency**: Proposals enacted in Iowa, Mississippi, North Dakota, and South Dakota;

- **Connecticut**: Reauthorization of the flex-rating statute;

- **Missouri**: Substantial tort reforms enacted including proposals related to “Phantom Damages,” Junk Science, and Bad Faith/Time Limited Demands;
Positive Enactments

- **Texas:** Legislature adopts sorely needed hail litigation reforms as well as the NAIC Credit for Reinsurance Model;

- **Transportation Network Companies:** “Ride Sharing” legislation based on the National Compromise/NCOIL model was adopted in Alaska, Connecticut, Florida, New York, and Wyoming (bringing the total number of states with such enactments up to 42).

- **Virginia:** Legislation adopted that will protect consumer against “storm scammers;”
Positive Developments

- **Delaware:** With NAMIC’s help, the industry succeeded in “tabling” HB 80, which would ban insurers from considering any “non-driving” factor such as CBIS, age, education, or occupation in rating or underwriting. Compromise proposal based on NCOIL CBIS model has been adopted;

- **Enterprise Risk Report:** Preserved ERR compliance thresholds in Kansas and Texas—at least for the near future.
Positive Developments

- **Louisiana:** Rejection by legislators of the DOI’s proposal to limit insurers to one rate increase per calendar year;

- **New York:** Most of the trial bar’s aggressive agenda was defeated including proposals regarding expanding wrongful death recovery, changing arbitration applicability, and enacting a private right of action for unfair settlement practices (statutory bad faith).
Positive Developments

- **Oregon:** Despite a very challenging legislative environment, the industry was able to defeat proposals that would double non-economic damage caps for statutory claims and wrongful death as well as the latest effort by the trial bar to enact first and third-party bad faith. And, we were able to defeat an effort to overturn a state supreme court ruling that applies current statutory caps on non-economic damages to common law damages claims (Horton case);

- **Washington:** Defeated dangerous legislation supported by the insurance commissioner that would have severely restricted the use of CBIS and would have severely limited the use of other risk assessment variables such as claims history and territorial ratings. Commissioner Kreidler is a well-known critic of insurance scoring.
Other Enactments

- **Corporate Governance Annual Disclosure:** Legislation based on the NAIC model was adopted in Idaho, Kansas, Maine, Montana, Nevada, Ohio, and Virginia (bringing the total number of states with such enactments up to 17).
Florida

- **Overview:** Due to recent election results, the Florida legislature includes no less than 12 Republican trial lawyers or lawyers that are philosophically aligned with the trial bar including the chair of the Senate Insurance Committee and the President of the Senate. Due to this dynamic, the industry was unable to achieve progress on AOB reform, WC reform, or PIP;

- **Building Codes:** The legislature adopted HB 1021, which includes changes to Florida’s building update and implementation process sought by Florida homebuilders that will weaken the state’s building code.

- **Assignment of Benefits:** The legislature failed to adopt legislation again this year curtailing abuse of AOBs. In 2006, there were 405 AOB lawsuits in the state. In 2016, that number increased to 28,200.
Developing Issues

- **California**: NAMIC will continue to work on Labor Rate and Anti-Steering legislation;

- **Connecticut**: Legislature will discuss potential solutions to the “crumbling foundations” problem during budget deliberations;

- **Florida**: In coordination with industry partners, NAMIC will begin preparing for the 2018 legislative session;

- **Illinois**: Continuing efforts to defeat proposals to ban CBIS;
Developing Issues

- **Indiana**: NAMIC will participate in the Senate’s study committee to explore and discuss regulator use of “incorporation by reference;”

- **NCOIL**: NAMIC will continue leading efforts to adopt model legislation to address rogue towing companies;

- **Rhode Island**: If and when the legislature returns, they may revisit several topics including problematic legislation related to rental car “loss of use;”
Theme of the Year: “Elections Matter”
Developing Trend
Autonomous Vehicles

- No less than 88 bills were introduced in 29 states;

- Enactments in AL, AR, NC, ND, GA, TX;

- Common themes of introduced proposals: allow for research and testing of AV systems, authorizes driver-assistive platooning, establishment of study committees;
Autonomous Vehicles

- Enactments:
  - AL SJR 55, creates a study committee;
  - AR H 1754, regulates AV testing; relates to “driver-assistive platooning;”
  - NC H 469, regulates fully autonomous vehicles;
  - ND H 1202, began as a data privacy bill. Transformed into interim study directing DOT to review current laws to determine how they apply to AVs
  - GA S 219, Exempts persons operating highly autonomous AVs from holding a driver’s license, also includes insurance requirements and provisions regarding collision notification.
  - NAMIC has created an AV Council that is closely following developments.
Politics is Not a Spectator Sport

Insurers must be engaged in shaping the legislative and regulatory landscape.
NAMIC’S Political Involvement Opportunities

▪ Congressional Contact Program (CCP)
  ▪ Premiere grassroots advocacy program in the country, now in its 32nd year

▪ Legislative Action Center
  ▪ Take Action to influence public policy and affect upcoming decisions
  ▪ Instantly communicate your views to members of Congress

▪ NAMIC PAC
  ▪ Ensures our voice is heard by supporting candidates who share our philosophies
NAMIC PAC

- NAMIC PAC is the largest p/c trade association PAC in the country
- NAMIC PAC raised $1,070,000 in 2016
- In 2016, NAMIC PAC supported insurance-friendly candidates at the state and federal level with $1.1 Million!
NAMIC PAC

- Whether or not you realize it, everyone has a PAC. NAMIC PAC is YOUR PAC.

- NAMIC PAC protects your business interests in Washington, DC and state capitals across the country.
Join NAMIC PAC Today!

Together we can make a difference.

Contact Laura Grace Ashton for more information.
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CompliPoint is NAMIC’s dynamic compliance database that enables users to identify and locate state statutes, regulations and other information and create custom reports for specific states and topics.

This product is available to all NAMIC member companies and their employees as part of NAMIC member dues.
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<td>Electronic Notifications to Policyholders</td>
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<td>Motor Vehicles</td>
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<td>Ala. Code § 32-1-7</td>
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Thank You!

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