

January 30, 2017

TO: The Honorable Senator Angel, Chair; and Honorable Senator Ericksen, Vice-Chair; and Honorable members of the Senate Financial Institutions and Insurance Committee

RE: SB 5082, Condominium Fire Safety Certification Requirement for Insurers - NAMIC's opposition to proposed legislation

Dear Honorable members of the Senate Financial Institutions and Insurance Committee:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony in opposition to SB 5082.

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 138 members who write property/casualty in the State of Washington, which represents 48% of the insurance marketplace.

Although NAMIC commends Senator Pearson for sponsoring an important public safety bill designed to make sure that condominium owners comply with safety codes, NAMIC has a number of public policy concerns, and practical application concerns with the proposed legislation.

SB 5082 requires an insurer of a commercial or residential rental property to obtain certification that the owner complied with laws and codes related to smoke detectors and fire alarms. We believe that most insurers require property owners to have smoke detectors and fire alarms, as required by law, on their premises. Our concern is regarding the additional imposition of potential liability on insurers for an activity they cannot verify.

1) The proposed legislation pertains to a clear public safety governmental function activity that should not be delegated to the private sector. State and local governmental agencies are empowered with the regulatory authority to investigate and enforce public welfare and safety regulations, including building code compliance and health and safety code compliance. Insurance companies do not have such regulatory authority, nor do they have the subject matter expertise necessary to evaluate whether a condominium owner or association is actually in compliance with such laws, especially as city and county ordinances can vary broadly.

For example, in order to inspect and "certify" most fire alarm and fire sprinkler systems, an inspector must be licensed and have certifications that indicate his/her level of expertise to do such work. Washington specifically recognizes the National Institute for Certification in Engineering Technologies (NICET), which sets forth detailed inspection guideline.

Since the state of Washington has skilled, well trained local fire inspectors, fire marshals, and building

inspectors who have working knowledge of applicable safety codes and NICET inspection standards, it makes sense for these professionals to undertake this public safety function. Moreover, these experts generally have the appropriate certifications from the National Fire Protection Association and the International Code Council as fire inspectors, whereas, insurance professionals do not.

2) The proposed legislation imposes additional burdens on insurers that are unlikely to accomplish the public policy goal of making sure that condominium owners and associations are in actual compliance with safety code regulations. Requiring property and casualty insurers to secure a certificate of compliance with safety codes from property owners before issuing or renewing an insurance policy would do little to effectuate the intended goal. State and local government permitting and licensing agencies already have the most effective sanction available to enforce code compliance. An insurer has no way to verify that a certificate is valid and that residents are protected.

3) SB 5082 would present significant challenges to insurers trying to comply with the requirement. What regulatory and legal standards apply to determining whether the condominium owner or association has properly “certified” their code compliance? What must an insurer do as part of the certification process? Is a simple affirmation sufficient or would an insurer need to have expert knowledge of applicable regulations and verification of compliance with same by inspection?

4) Adding regulatory burdens increases the cost of insurance. The proposed legislation would arguably create a legal duty of care for the insurer that could lead to significant and costly liability exposure for insurers. Additionally, the proposed legislation is likely to create administrative costs for insurers, who may have to alter their insurance policies and forms to comply with the proposed certification requirement. This too, will become an unnecessary insurance rate cost-driver that will ultimately be borne by the insurance consumer.

For the aforementioned reasons, NAMIC respectfully requests that the Senate Financial Institutions and Insurance Committee **VOTE NO on SB 5082, because the proposed legislation is replete with troubling public policy issues and practical applications problems.**

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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