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February 16, 2017

Montana State Legislature
House Business and Labor Committee
P.O. Box 200400
Helena, MT 59620-0400

sent via email to:
karmstrong@mt.gov

RE: SB 58, Prohibits use of zero payment claims in underwriting – NAMIC’s Written Testimony in Opposition to legislation

Dear Representative Noland, Chair; Representative Curtis, Vice-Chair; Representative Ricci, Vice-Chair; honorable members of the House Business and Labor Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the House Business and Labor Committee on this proposed legislation.

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 134 members who write property/casualty in the State of Montana, which represents 40% of the insurance marketplace.

Although NAMIC truly appreciates the bill sponsor’s laudable desire to make sure that past insurance claims are fairly and appropriately considered by insurers in their rating and underwriting decisions, we are concerned that the proposed legislation is premised upon an unfounded supposition, i.e. that *payment* of a claim is the controlling variable in determining an insurance consumer’s risk of loss exposure.

Insurance is an actuarial science involving risk of loss sharing and transfer, where the policyholder pays an insurance premium to share and transfer certain risk of loss exposure to an insurance company. As part of the insurer’s decision to enter into the insuring agreement with the consumer, the insurer decides which insurance risks to accept or reject, and considers the consumer’s risk of loss exposure, i.e. probability and severity of claims potential, in determining whether the proposed risk of loss transfer at issue is appropriate for the insurer’s book of aggregate business, i.e. whether it could adversely impact the insurer’s ability to address the coverage needs of its other insurers. Insurers also use this consideration of the consumer’s

potential risk of loss exposure to calculate an insurance rate that is fair and commensurate with the consumer's personal risk of loss exposure.

At a fundamental conceptual level and as a practical actuarial science consideration, the insurance consumer's risk of loss exposure, not whether a loss payment has been made is the controlling insurance variable.

Therefore, whether an insurance consumer's claim is paid or not by the insurer, does not necessarily change the underlying claims risk of loss exposure. For example, assume that a policyholder has structural damage to the entryway staircase of their home and they submit an insurance claim, but it is not paid by the insurer because it was not caused by a covered insurance peril enumerated in the homeowner's insurance policy. If the policyholder does not fix the damaged staircase, he has now created an unreasonable and serious hazard for third-parties entering and exiting the home. This creates a possible liability exposure for the policyholder, which would likely be a covered insurance peril that the insurer would have to contractually cover. The proposed legislation would prevent the insurer from being able to consider this zero payment claims history in their rating and underwriting decision, even though it contains information that is clearly relevant to the consumer's ongoing risk of loss exposure. This is fundamentally counter to the very concept and purpose of property and casualty insurance, creates the moral hazard of rewarding consumers for not resolving or remediating their risk of loss exposure, and could adversely impact affordability of insurance coverage for consumers.

Additionally, NAMIC is concerned that the proposed legislation makes the contemplated underwriting prohibition a form of unfair discrimination and rebating, which could trigger potential regulatory and civil liability exposure for insurers. This new liability exposure for insurers could adversely impact the insurance relationship between the insurer and consumer, and make the claims and underwriting process needlessly contentious. Moreover, it could lead to frivolous civil litigation that would be a harmful insurance rate cost-driver.

For the aforementioned reasons, NAMIC respectfully requests that the House Business and Labor Committee **VOTE NO on SB 58**.

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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