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January 21, 2015

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

*sent via email to:*  
[karmstrong@mt.gov](mailto:karmstrong@mt.gov)

**RE: HB 119, NAIC Accreditation legislation – NAMIC’s Written Testimony  
Position – Support, with amendments to make bill more closely mirror NAIC ORSA Model**

Dear Representative Berry, Chair; Representative Salomon, Vice-Chair; Representative Lynch, Vice-Chair; and 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 for the January 22, 2015, public hearing.

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 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 134 members who write property/casualty insurance in the State of Montana, which represents 40% 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 appreciates State Auditor Lindeen’s and Representative/Chair Berry’s thoughtful efforts to revise state law to comply with the National Association of Insurance Commissioner’s (NAIC’s) Own Risk Solvency Assessment Model Act (ORSA) for accreditation purposes.

Although HB 119 does not copy the NAIC ORSA Model Act word for word, the proposed legislation does appropriately address most of the key issues. NAMIC’s concerns are as follows:

1. The definition of “own risk solvency assessment” does not include the qualification that each ORSA will be “appropriate to the nature, scale and complexity of an insurer or insurance group.” This is an important provision from an administrative cost and staffing resources standpoint, especially for companies on the smaller side of \$500 million DWP.
2. The definition of “Risk Management Framework,” needs to be revised, because it refers to the process as a “study.” It is really a “framework”. One could call it a “process” or a “system”, but the “framework” should really include: a) a leader to manage the ERM process; b) a means for gathering, evaluating and monitoring information; and c) a committee or team that will set tolerances and appetites for risks, etc. These tasks entail ongoing activities that make the procedure more than a “study”.
3. In Section 4 of the proposed legislation, the language is ambiguous as to which insurers must comply with the ORSA framework. One could reasonably interpret the language to require *all* Montana insurers to maintain such a framework. This would not be consistent with the language or intent of the NAIC ORSA Model Act. NAMIC suggests adding the word “all Montana domestic insurers” to alleviate questions about who is required to comply.
4. Section 6(2) needs to be reworded to eliminate some ambiguities pertaining to how it interrelates with the exemption provision. NAMIC suggests adopting the NAIC ORSA Modal ACT language on point.
5. NAMIC is concerned that Section 7(5)(b) is extremely broad in scope and arguably creates regulatory authority that exceeds the letter and spirit of the NAIC ORSA Model Act. Specifically, the provision could arguably be interpreted as granting the Commissioner extensive authority to override the exemption language. This is a significant deviation from the NAIC ORSA Model Act. In the model, this section refers specifically to overriding the exemption for companies that are at the Company Action Level for RBC or in Hazardous Financial Condition. The broad authority arguably granted in HB 119 really goes far beyond these clear regulatory parameters and potentially allows the Commissioner to override the exemption based upon *any* determination that it is purportedly “necessary” for regulatory purposes. The proposed legislation also deletes subsections of the model that help explain what will happen for companies crossing the threshold in the middle of a year. NAMIC believes that this section of the bill should be amended to make it more consistent with the language and intended regulatory scope of the NAIC ORSA Model Act. (Model Act attached for review).
6. HB 119 also deletes two paragraphs on the “Contents of the ORSA.” The proposed legislation does reference the guidance manual, which addresses some of NAMIC’s concerns, but this approach is a bit unusual as compared to how other state regulators are addressing this provision. NAMIC believes that consistency in state ORSA language will promote national uniformity, which is a goal of the NAIC.
7. The Confidentiality Section in the proposed legislation deviates from the language in the NAIC ORSA Model Act, but does provide necessary protection for “trade secrets.” Since confidentiality protects are of paramount to insurers, because they facilitate pro-consumer market competition, NAMIC believes that this section should be comprehensive in scope and robust in intellectual property rights protection. Consequently, NAMIC requests that this section be amended to specifically state that insurer information is also “proprietary”,

since there could potentially be a legal distinction between “proprietary” information and “trade secret” information.

For the aforementioned reasons, NAMIC respectfully requests that the House Business and Labor Committee, Representative/Chair Berry, and State Auditor Lindeen AMEND HB 119, so that it more closely parallels the NAIC ORSA Model Act.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you would like to discuss NAMIC’s written testimony.

Respectfully,



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