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January 22, 2015

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

*sent via email to:*  
lkeim@mt.gov

**RE: SB 84, Use of Claims History – NAMIC’s Written Testimony in Opposition to Legislation**

Dear Senator Buttrey, Chair; Senator Anntzen, Vice-Chair; Senator Stewart-Peregory, Vice-Chair; and honorable members of the Senate Business, Labor, and Economic Affairs 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 23, 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 respects and appreciates Senator McNally and State Auditor Lindeen’s desire to make sure that an insurance consumer’s claims history is used appropriately by insurers in the rating and underwriting process. However, NAMIC is opposed to SB 84, because it will seriously hinder an insurer’s ability to provide insurance consumers with what they need and desire – insurance rates that are commensurate with the consumer’s personal risk of loss exposure. The proposed legislation is conceptually in direct conflict with the fundamental actuarial principle that insurance rates should be determined by engaging in a thorough and comprehensive

evaluation of risk. SB 84 would restrict an insurer's ability to consider certain relevant and meaningful claims history information that is necessary for insurers to provide consumers with rates that are fair and accurate.

Although the proposed legislation may seem to be pro-insurance consumer, NAMIC is concerned that SB 84 may actually be detrimental to insurance consumers for the following reasons:

1) SB 84 prevents insurers from being able to provide consumers with insurance rates that thoroughly reflect "the big picture" of the consumer's claims history. In order to have a complete picture of something, one needs to look at the complete foreground (recent claims history) and the background (past claims history).

2) The proposed legislation hinders insurers in their ability to properly match rates to risk, so low risk of loss consumers pay less than high risk of loss consumers – a standard equitable principle. SB 84 basically says – an insurer may look at *all* the favorable claims history regardless of the age of the claims history, but is limited to *only* recent adverse claims history (recent 3 years for private passenger auto, and recent 5 years for commercial auto and residential). NAMIC is concerned that the proposed legislation will deny low risk of loss exposure consumers (those with limited adverse recent and past claims history) from reaping the actuarial benefit of their claims experience and personal risk management commitment. Additionally, NAMIC is worried that high risk of loss consumers (those with extensive adverse recent and past claims history) will end up receiving a rating benefit they shouldn't be entitled to – insurance rates similar to those of low risk of loss exposure consumers. Such a regulatory approach discourages insurance consumers from being good personal risk managers and rewards consumers for not being active personal risk managers. In effect, SB 84 will ultimately require low risk of loss exposure consumers to subsidize the rates of high risk of loss exposure consumers.

3) SB 84 will act as an insurance rate cost-driver for all insurance consumers, because rating, at the aggregate level, requires a complete consideration of both favorable and adverse claims history information. The proposed legislation requires insurers to look at risk through restrictive "rose colored" glasses (i.e. an insurer may consider all of the favorable claims history, but only some of the adverse claims history). NAMIC is concerned that such a one-sided evaluation of risk will adversely impact affordability and availability of insurance for consumers.

4) The proposed legislation could discourage insurers from developing new insurance products and discounts, because it is difficult to create new products "when one hand is tied behind your back", which is figuratively what the proposed legislation does by restricting an insurer's ability to consider the "totality" of the risk exposure, i.e. fully evaluate *both* the favorable and adverse risk factors that are inextricably part of the risk based rating equation.

NAMIC is also concerned that the proposed legislation unreasonable interferes with an insurer's ability to engage in appropriate underwriting decisions relating to which insurance consumers the insurer should offer coverage to, which is necessary for the insurer to properly address its legal and financial needs, and duties to its policyholders. Since Montana already has very restrictive

underwriting laws, the proposed amendments to Section 33-18-210, MCA are unnecessary, and likely to do more harm than good.

For the aforementioned reasons, NAMIC respectfully requests that the Senate Business, Labor and Economic Affairs Committee VOTE NO on SB 84.

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,

A handwritten signature in cursive script, appearing to read "Christian John Rataj".

Christian John Rataj, Esq.  
NAMIC – Senior Director of State Affairs  
Western Region