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February 16, 2015

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

sent via email to:
karmstrong@mt.gov

RE: HB 503, Loss History and Reserves – NAMIC’s Written Testimony in OPPOSITION to Legislation

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 February 16, 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 is opposed to HB 503, because it will: a) require insurers to have to disclose confidential and proprietary internal business practices; b) create unnecessary underwriting and claims adjusting administrative burdens and costs for insurers; and c) facilitate the filing of inappropriate “inflated-damages” insurance claims, which act as insurance rate-cost drivers.

Insurance companies each have their own unique way of underwriting insurance policies and adjusting claims, it is part of their proprietary business practice which helps them be competitive in the insurance marketplace to the benefit of insurance consumers. HB 503 would require insurers to disclose this information, which is inconsistent with intellectual property rights law

and is anti-market completion. NAMIC appreciates the fact that the proposed legislation states that a policyholder may not disclose this information to a third-party or use it for any purposes other than the policyholder's internal management. However, the reality of the situation is that this prohibition on disclosure is near-impossible to enforce. How would an insurer even be able to know, let alone prove in a court of law that the policyholder disclosed this confidential and proprietary information to one of the insurer's competitors or another interested third-party, like a litigant with a pending lawsuit against the insurer?

Moreover, the policyholder doesn't need this first-party claims information, because the policyholder is the one who submitted the claim in the first place, so the policyholder has actual knowledge of all the details of the insurance claims and copies of the documentation the policyholder submitted to support the insurance claims. Why should the insurer be required to provide the policyholder what he/she already should have in their possession?

NAMIC is also concerned that this proposed legislation could facilitate the filing of inappropriately "inflated damages" first-party claims. Insurers set loss reserves for internal accounting and state law solvency purposes. They are generally set higher than the likely settlement value of the claim to make sure that the insurer always has enough funds on hand to pay all of the pending insurance claims. This information need not and should not be disclosed to any third-party other than a state regular, especially a party to an insurance claim, whether it be a policyholder or a third-party claimant who has a pending insurance claim, because this information could mislead the policyholder into believing that the reserve amount is the actual value of the insurance claim or be used by the policyholder's attorney against the insurer in claims settlement negotiations or even litigation. There is NO legitimate reason why a policyholder needs to know claims reserve information.

NAMIC's members support fair, appropriate, and meaningful transparency of information necessary and beneficial to insurance consumers, but the disclosure of confidential and proprietary trade secrets and internal business practices, and state solvency required loss reserves is *not* appropriate, meaningful, and beneficial transparency, especially since it doesn't provide any information to the policyholder that is needed to make an informed decision about the value of their insurance claim or to assist them in making an insurance purchasing decisions.

For the aforementioned reasons, NAMIC respectfully requests that the House Business and Labor Committee **VOTE NO on HB 503**.

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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