

February 20, 2017

Montana State Legislature
Senate Judiciary Committee
P.O. Box 200400
Helena, MT 59620-0400

sent via email to:
pschindler@mt.gov

RE: SB 293, Pre-judgment Interest - NAMIC's written testimony in support

Dear Senator Regier, Chair; Senator Fielder, Vice-Chair; Senator Court, Vice-Chair; and honorable members of the Senate Judiciary Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the Senate Judiciary Committee for the February 20, 2017, public hearing.

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.

Thank you for providing NAMIC with an opportunity to submit written testimony in support of SB 293. NAMIC respectfully submits the following comments in support of the proposed legislation:

- **The proposed legislation will promote fair and just civil judgments for *all* litigants** – As a general equitable principle and legal doctrine, a plaintiff should receive *no less and no more* than what they need to be restored to their pre-injury condition, and a defendant (except in extraordinary cases where punitive damages are legally appropriate per statute) should be required to pay *no less and no more* than what is necessary to properly compensate the plaintiff for his/her actual damages. The current 10% per year civil judgment interest rate provides claimants with an *economic windfall*, because the plaintiff can recover an interest rate on their damages, which far exceeds what the plaintiff could actually earn if he/she invested the damages money in a traditional financial investment. Claimants seeking a legal redress of their injury should be *fully compensated* for their loss, but they should not be allowed to *profit* from their claim.

- **SB 293 will help discourage the filing of frivolous lawsuits and needlessly protracted litigation, which are unavoidable insurance cost-drivers that adversely impact insurance rates for all consumers and businesses** – By lowering the civil judgment interest rate to a financially appropriate level, there will be less of an economic incentive to file questionable legal claims that take years to be fully adjudicated. Under the current law, there is a clear economic incentive for plaintiffs to let their case slowly meander through the judicial system, because their damages claim increases each year at a guaranteed interest rate – one that clearly beats conventional financial investment products. Such a manipulative practice creates needless congestion of court dockets and increases legal defense costs that ultimately affect the price of goods and services for all consumers.
- **The current pre-judgment interest rate is based upon an arbitrary number and has no logical connection to the world of interest rates** – In contrast, the Federal Reserve Prime Interest Rate used in SB 293 is used by major lending institutions (traditional banks, credit unions, thrifts, etc.) as the foundational benchmark rate index for pricing various loans and investment products. The Federal Reserve Prime Interest Rate is used in most consumer loan products such as: student loans, home equity lines of credit, car loans, and credit cards. Consequently, using this adjustable government financial interest rate index makes sense and allows for the civil judgment interest rate to *reflect the actual financial conditions of the country at the time the judgment is entered*. Moreover, with the “plus 3%” provision in the bill, the claimant is guaranteed to receive an interest rate that is, at least, equal to if not greater the most competitive investment products on the market.

For the aforementioned reasons, please **VOTE YES on SB 293, because the legal system is supposed to promote fair and just civil judgments, not excessive ones.**

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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