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Idaho State Legislature  
House Business Committee

*Sent via email to: [hbus@house.idaho.gov](mailto:hbus@house.idaho.gov)*

**Re: HB 163, Underinsured Motorist Coverage – NAMIC’s written testimony in opposition**

Dear Representative Vito Barbieri, Chair; Representative Lance W. Clow, Vice-Chair; and honorable members of the House Business Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the March 1, 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 168 members who write property/casualty in the State of Idaho, which represents 37% of the insurance marketplace.

NAMIC appreciates and shares the bill sponsor’s desire to make sure that insurance consumers receive the full benefit of their UM/UIM auto insurance coverage. NAMIC believes that the current and well-established law on UM/UIM coverage addresses consumer needs and desires in a fair, efficient, and affordable manner. NAMIC is concerned that HB 163 will actually harm not help auto insurance consumers, because it will create an unnecessary insurance rate cost-driver that could adversely impact affordability of UM/UIM coverage, will increase the filing of illegitimately inflated damages claims, reward at-fault drivers for being underinsured in their liability coverage limits, and hinder consumers in their ability to determine the appropriate amount of UM/UIM coverage limits that is best for their personal insurance needs.

**HB 163 will create an unnecessary insurance rate cost-driver that could adversely impact affordability of UM/UIM coverage.**

It is an irrefutable principle of business (including the insurance business) that the price paid by a consumer for goods and services (insurance products) is directly influenced by the cost to the insurer of doing business. So when underinsured settlement demands and payments increase in value, and claims adjusting and legal defense costs increase as a result of inflated underinsured damages claims, so too does the cost of doing business for insurers. This transactional cost-driver could adversely impact the affordability of UM/UIM coverage for consumers.

The practical implication of this increased cost of UM/UIM coverage is that it may prevent some consumers from being able to afford this optional insurance coverage at all or it may force some consumers to purchase lower UM/UIM coverage limits because of the increased cost associated with purchasing the UM/UIM coverage limits they currently have as part of their auto insurance policy.

**HB 163 will hinder insurance consumers in their ability to determine what UM/UIM coverage limits is best for their personal insurance needs.**

It has been a long-standing practice that UM/UIM coverage is purchased by consumers with the policyholder understanding that if he buy \$100k in UM/UIM coverage, the consumer has a total of \$100k in total coverage available for the auto accident. Thus, if the at-fault driver is uninsured the policyholder has \$100k in total coverage, and if the at-fault driver is underinsured (i.e. the at-fault party has less liability coverage limits than the injured party has in total damages) the policyholder can go to his/her UIM policy and receive \$100k in total coverage.

In effect, pursuant to the current law, a policyholder can readily determine what UM/UIM coverage limits to purchase, because the amount of the at-fault party's liability coverage doesn't impact the total amount of coverage the insurance consumer has available in protection. If the policyholder wants \$500k in total coverage, she can purchase that specific optional amount.

In contrast, the proposed legislation would make it impossible for the policyholder to be certain of the amount of their UM/UIM coverage, because their total coverage protection will be partially based upon a variable the consumer cannot control (i.e. the amount of the liability coverage limits purchased by the at-fault party).

EX. 1(a): Current law – X determines that he needs \$100k in total coverage protection, so he buys \$100k in UM/UIM. Consequently, he has \$100k in total coverage, regardless of what the at-fault party has in liability coverage limits or whether the at-fault driver is uninsured or underinsured. Either way, the policyholder has \$100k in coverage, if he has \$100k in damages or injuries.

EX. 1(b): Proposed law - X determines that he needs \$100k in total coverage protection, so he buys \$100k in UM/UIM and gets into an accident with an at-fault driver, where the policyholder sustains \$100k in damages or injuries. If the at-fault driver is *uninsured*, X has \$100k in total coverage limits, if the at-fault driver in *underinsured* with only \$25k in liability coverage, X has \$125k in possible underinsured coverage limits (\$25k in liability coverage and then \$100k in UM/UIM coverage). This doesn't make any sense. In essence, the actual value of the policyholder's \$100k UM/UIM coverage limits is ultimately determined by whether the at-fault driver is uninsured or underinsured.

Now some have argued that the current UM/UIM law, which allows the insurer to “set-off” the amount of the at-fault driver's liability policy denies the policyholder of the full value of the

underinsured coverage limits. However, this contention is conceptually and legally incorrect, because the policyholder selects the amount of the *total* coverage limits that he/she wants and he/she gets that exact amount of the coverage limits purchased. The mere fact that the UM/UIM insurer gets to “set-off” the amount of the liability coverage limits paid (which is nothing more than a prospective form of “contractual subrogation”, i.e. a legal right the first-party insurer has to mitigate damages and recover what it paid out to its policyholder as a result of the negligence of the at-fault party) doesn’t change the *total* coverage protection afforded the policyholder. The policyholder is not denied any contractually agreed upon UM/UIM coverage limits. If the policyholder purchased a *total* of \$100k in UM/UIM coverage, she gets that full \$100k, if she sustained \$100k in damages.

**NAMIC is also concerned that the proposed legislation would create a dynamic where policyholders are forced to pay for a UM/UIM coverage limit that is based upon a coverage amount that is greater than what the policyholder actually selected.**

Insurers base their UM/UIM insurance coverage rates upon their legal ability to recover damages paid to their policyholder from the at-fault driver’s liability carrier. This is done by reducing the payment of the underinsured coverage limits by the amount already collected by the policyholder from the at-fault driver’s liability insurance carrier.

If the UM/UIM coverage insurer is prohibited from collecting this amount, the insurer will have to reprice the UM/UIM coverage for *all* policyholders. This is entirely unnecessary, because a policyholder currently has the right to select and pay for higher UM/UIM coverage limits if he/she wants enhanced financial protection. The proposed legislation merely reduces consumer choice by forcing *all* UM/UIM coverage policyholders to have to purchase a de-facto higher coverage limits underinsured motorist policy.

For the aforementioned reasons, NAMIC respectfully requests that this committee **VOTE NO on HB 163.**

Thank you for your time and consideration of NAMIC’s written testimony. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you have any questions pertaining to my written testimony.

Respectfully,



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