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Subject: AB 398 Proposed Regulation - NAMIC's written testimony in support
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AB 398 Proposed regulation - NAMIC Testimony .docx

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Please accept this submission as NAMIC's written testimony for the rulemaking,

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Nevada State Division of Insurance

September 12, 2023

Emailed to: regs@doi.nv.gov**Proposed Regulation pertaining to AB 398 - NAMIC's Testimony in Support**

Thank you for providing the National Association of Mutual Insurance Companies an opportunity to submit written testimony in support of the Proposed Regulation.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade group with a diverse membership of more than 1,400 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 66 percent of the homeowner's insurance market and 53 percent of the auto market.

NAMIC supports the proposed regulation for the following public policy and legal reasons:

1) **The proposed regulation is consistent with agency regulatory authority and promotes the regulatory objective of maintaining a healthy and stable insurance marketplace for consumers –**

As noted in the First Workshop for the Proposed Regulation and in the Emergency Regulations on AB 398, the Division of Insurance (DOI) extensively surveyed policyholders and insurers after the enactment of AB 398 to evaluate what the likely impact of the legislation might have for the marketplace. *All* of the testimony provided to the DOI from consumers and insurers support the conclusion that AB 398 has the potential to eliminate or greatly reduce the availability of certain policies of liability insurance in the state and significantly increase insurance costs for consumers and businesses in Nevada. Consequently, the Proposed Regulation, which seeks to clarify a number of vague and ambiguous provisions in AB 398, is clearly consistent with the regulatory authority and regulatory necessity standard of the Administrative Procedures Act.

2) **The proposed regulation is reasonable and appropriate in regulatory scope –**

Liability insurance provides both indemnification coverage and litigation defense coverage as part of the protection purchased by the policyholder. The two coverage interact with each other and are considered by the insurer when pricing the cost of the insurance product. AB 398 interferes with this common-sense relationship between defense costs and indemnification protection; thereby, requiring regulatory guidance for insurers. The proposed regulation provides thoughtful and measured guidance for insurers on the issues of: 1) Defining what is a "policy of liability insurance", 2) Identifying the insurers to which AB 398 does not apply based on existing state and federal law, and 3) Providing guidance to insurers as to how they may address the issue of defense coverage in their insuring agreements. All three of these issues were left unclear by the plain language of AB 398, so it is important for the DOI to provide this necessary clarity for the benefit of insurance consumers.

3) The ambiguous language of AB 398 could create an insurance pricing problem for insurers that could adversely impact the entire marketplace for certain commercial and professional coverages –

The language of AB 398 does not provide insurers with necessary guidance as to how an insurer may comply with the provision in the statute that disallows insurers from issuing or renewing a policy of liability insurance that reduces the liability limit stated within the policy by certain legal defense costs. Consequently, the Proposed Regulation is necessary to provide insurers with a regulatory compliance approach they can use to try and separately price indemnification coverage limits and defense coverage limits, and inform consumers of these coverage options.

In closing, NAMIC supports the Proposed Regulation, because it is a thoughtful, measured and practical regulatory approach to provide insurers necessary guidance for them to comply with AB 398.

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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