

March 16, 2020

Representative Zack Fields, Co-Chair
Representative Jonathan Kreiss-Tomkins, Co-Chair
Honorable Members of the House State Affairs Committee

emailed to committee members

Re: House Bill 274, Property Insurance Surcharge – NAMIC’s letter of Opposition

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony for the public hearing on HB 274. NAMIC is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies representing 40 percent of the total market. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country’s largest national insurers. NAMIC member companies serve more than 170 million policyholders and write nearly \$225 billion in annual premiums. NAMIC has 96 members who write property/casualty and workers’ compensation insurance in the State of Alaska, which represents 41% of the insurance marketplace.

NAMIC and its members appreciate the bill sponsor’s desire to appropriately fund the Alaska Fire Standards Council so that this organization may be able to assist state agencies, the business community, and citizens in their efforts to prevent and mitigate wildfire risk. Although we commend the state legislature on this pro-public safety, general welfare policy objective, we are opposed to this specific approach to funding the Alaska Fire Standards Council for the following legal, regulatory and public policy reasons:

- 1) **The proposed surcharge for all practical purposes is a hidden tax** – The very language of the proposed legislation acknowledges that HB 274 is creating a *tax or tax substitute* to be imposed upon property insurance consumers. The bill starts off by saying, “[i]n addition to the *taxes applicable under this section*” [Emphasis added]. This statutory section pertains to taxes, so the mere fact that the bill calls this tax a “surcharge” doesn’t change the reality of the situation. NAMIC believes that citizens of the state deserve the candor of a tax for the benefit of the citizens public welfare to be called a tax and not hidden via euphemistic terminology.
- 2) **HB 274 would burden *only* property insurance consumers with the cost of funding this general welfare, state-wide public safety program** – NAMIC is concerned that the proposed legislation targets *only* property insurance consumers for this “hidden tax”. While the Alaska Fire Standards Council may well be a good public policy organization with laudable objectives, it should be funded from public funds not out of the pockets of limited private citizens. From a public policy standpoint, why shouldn’t *all citizens*, whether they are insurance consumer or not, be required to fund a program that is designed to address a general welfare, state-wide public safety program?
- 3) **The administrative burdens associated with compliance with proposed legislation would create new insurance rate cost-drivers for insurers and their policyholder** – NAMIC is concerned that the proposed legislation will create new administrative costs and burdens for insurers that could adversely impact insurance costs for consumers. Insurers write insurance, they do not have experience with or expertise in collecting state taxes. When consumers are billed an additional \$3 dollars tax/surcharge on their property insurance premium billing statement, many consumers will contact the insurer to question the charge and possibly dispute the charge. Thus, insurers will have to invest staffing resources into changing their billing statements to include this tax/surcharge assessment, answering consumer inquiries and complaints, collecting, accounting for and disbursing the tax/surcharge revenue to the state. As the State Department of Revenue can surely attest to, billing, collecting and accounting for tax revenue requires significant staffing resources. From a public policy standpoint, why should insurance consumers be burdened with this governmental function expense?



- 4) **HB 274 would require insurers to engage in a governmental function without the power or legal liability protection government entities possess** – Insurers are private businesses. They are not public sector state agencies or even quasi-governmental entities that possess certain governmental immunity protections. Insurers should not be forced to engage in a state activity that creates possible civil liability exposure for the company. Further, insurers should not be forced, via their engagement in the state revenue collections function, into the middle of a political debate over increased taxation of citizens.
- 5) **The proposed legislation will create unnecessary regulatory challenges for insurers, because insurers only bill and collect premium payments from policyholders** – NAMIC is concerned that the proposed tax/surcharge requires insurers to engage in activities that exceed the scope of the insurance code and their regulatory duties to insurance consumers. Insurers should be using their insurance premium generated resources to address insurance related activities and the insurance needs of consumer, e.g. creating and marketing insurance products, underwriting and rating insurance risk of loss exposure, and adjusting/settling insurance claims. The proposed legislation will expose insurers to a host of new regulatory challenges that are unrelated to the business of insurance. Further, HB 274 could create problems for insurers in regard to current regulatory requirements relating to the timely response to insurance consumer inquiries and complaints. Additionally, what must an insurer do collections-wise if the policyholder refuses to pay the surcharge/tax as part of their insurance payment? What is the legal impact of non-payment of the surcharge/tax on the enforcement of the insurance policy? What if a consumer files a complaint with the Division of Insurance against the insurer for trying to collect the surcharge/tax?
- 6) **HB 274 will create administrative burdens for the Division of Insurance, because they will have to regulate de-fact tax collections activities** – The proposed legislation specifically authorizes and requires the Division of Insurance to use agency resources and staffing to engage in rulemaking to effectuate a law that has nothing to do with the business of insurance. The mandate of the Division of Insurance is to enforce the insurance code and promote solvency of insurers for the benefit of insurance consumers. The agency is not authorized to engage in regulating the generation of revenue for state public safety activities.

For the aforementioned reasons, **NAMIC respectfully requests a NO VOTE on this hidden tax on property insurance consumers. Insurers should do what they do best - provide insurance to consumers, not collect taxes for the state.**

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,

Christian John Rataj, Esq.
NAMIC Senior Regional Vice President
State Government Affairs, Western Region