



April 9, 2021

The Honorable Matt Claman & Members  
of the House Judiciary Committee  
Alaska House of Representatives  
Alaska State Capitol Building  
Juneau, AK 99811

*Submitted Electronically Via Email*

**RE: House Bill 29, Electric Utility Liability – Letter of Opposition and Suggested Amendments**

Dear Chair Claman and Members of the Committee:

The American Property Casualty Insurance Association (APCIA) and National Association of Mutual Insurance Companies (NAMIC) appreciate the opportunity to submit written testimony for the public hearing on HB 29. APCIA and NAMIC are the largest property and casualty insurance trade associations in the country, and collectively our members include a wide range of companies from small, single-state mutual companies to some of country's largest national insurers.

The legal and public policy implications of wildfires are of grave importance to citizens throughout the western United States. APCIA's and NAMIC's member insurers are committed to addressing wildfire risk mitigation and prevention in a way that thoughtfully balances the reasonable needs of all interested stakeholders. We are concerned with HB 29, as currently drafted, because it only focuses upon the legal and financial needs of utility companies. Although we appreciate that there is a need to address certain liability exposure for utilities that are caused by hazards beyond the control of utility companies, the proposed legislation would grant utilities overly broad civil liability immunity and create a confusing liability immunity standard that could lead to costly and protracted litigation for utilities, insurers, and property owners in Alaska.

The proposed language of the civil liability immunity provision in the bill would create financial hardships for individuals who own uninsured homes, cabins, and family generational homesteads. If a utility company's negligence causes a wildfire, the company would have the argument that they are statutorily immune from civil liability, thereby leaving the homeowner without any legal recourse to rebuild their lives. Additionally, we are concerned that the proposed civil liability immunity would adversely affect insurance consumers, whose insurance rates are directly impacted by an insurer's

ability to legally subrogate against the at-fault party to recover damages paid by the insurer to the policyholder pursuant to the insuring agreement. The proposed civil liability immunity provision in the bill could adversely impact affordability of homeowners' insurance for consumers at a time when many citizens are still trying to recover from the financial hardships created by the coronavirus pandemic.

Further, from a public policy perspective, civil liability exposure not only provides a legal remedy to redress the financial damages suffered by an innocent party, but it also provides an economic incentive for businesses and individuals to engage in appropriate risk mitigation activities necessary to prevent societal hazards, like wildfires. Current state tort of negligence law already provides utilities, like all other citizens, with certain legal rights and protections. Specifically, a utility may only be held legally liable for its negligent acts or omissions. Consequently, there really is no need for such broad civil liability immunity.

Our respective members do appreciate that utilities have a difficult task of trying to remove hazardous trees not on their property, which may pose an unreasonable wildfire risk if they fall on a utility powerline. We support continuing to work on this issue and have attached to this letter a proposed amendment that balances the reasonable needs of all interested stakeholders.

In the proposed amendments, we also suggest some language to enhance the clarity and practical value of the proposed wildland protection plan provision in the bill. The proposed amendment language is derived from legislation enacted in Utah after extensive debate and negotiations with interested stakeholders. We believe that this proposed language would establish some objective guidelines and best practices metrics to assist utility companies in their efforts to engage in wildfire risk mitigation and prevention activities that will reduce their liability exposure and protect citizens of the state from the dangers of wildfires.

Thank you for your time and consideration. We look forward to collaboratively working with this committee, the bill sponsor, and the utilities to address this important public safety project. Please feel free to contact either of us if you would like to discuss this issue further. Christian may be reached at 303-907-0587 or [crataj@namic.org](mailto:crataj@namic.org) and Lyn at 720-610-9473 or [lyn.elliott@apci.org](mailto:lyn.elliott@apci.org).

Respectfully,



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