

Alaska State Legislature
Senate Committee on Labor and Commerce

March 24, 2025

Submitted electronically to: Senate.Labor.And.Commerce@akleg.gov

RE: SB 132, Omnibus Insurance Bill - NAMIC's Written Testimony in Opposition to Depreciation of Labor Provision

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the Senate Committee on Labor and Commerce for the public hearing on SB 132, Omnibus Insurance Bill.

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 is supportive of the technical revisions and regulatory update provisions in the bill and appreciate the Director's continuing efforts to assist insurers in their efforts to address evolving insurance consumer needs. However, we are strongly opposed to the Depreciation of Labor (DOL) provision in the bill (Sections 34 and 53) for a number of legal and public policy reasons.

Specifically, NAMIC respectfully submits the following statement of concerns, questions and suggested revisions:

1) The DOL Portions of SB 132 Are Contrary to Historical Practices

The DOL provisions of SB 132 prohibit insurers from depreciating labor in their actual cash value (ACV) calculations following a property loss, unless "the intrinsic labor costs that are included in the cost of manufactured materials or goods." These sections are contrary to well-established, historical practices in the insurance industry. ACV means "economic value", and economic value is based on the *whole product*, not just the damaged portion. An object derives value from both the material and labor that went into it. Likewise, depreciation affects all portions of the property's value, including that contributed by labor. Because labor cannot realistically be separated from the material, the asset as a whole depreciates and insurers have depreciated the entire estimated replacement cost of damaged property, including the estimated labor costs, when calculating ACV.

The overwhelming majority of state departments of insurance, state legislatures, and court decisions across the country recognize that insurers may properly apply depreciation to estimated labor costs,

particularly when the policy expressly permits. In fact, in 2017, the Arkansas legislature passed legislation expressly approving the practice (Ark. Code § 23-88-106 (2017).) Today, only a few outlier states (e.g., California, Washington, and Vermont) outright prohibit or seek to prohibit labor depreciation and a minority of court's have held that labor depreciation was improper *only* because the policies in question did not expressly permit it.

2) The Proposed DOL Provision Takes Away Consumers Choice and May Impact Affordability

In today's inflationary world, consumers are mindful of their financial budgets and want state regulators to protect them from avoidable price increases. The DOL provisions of SB 132 are unnecessary insurance rate cost-drivers; they require insurers to include labor in their calculation of ACV. If labor is not depreciated, no insured property would ever have an "actual cash value" less than the cost of labor to rebuild it. Every structure, regardless of its age, condition or actual economic value would be deemed to have substantial "actual cash value," even if the property's useful life had fully expired. An ACV payment could exceed the entire value of a structure, potentially a perverse incentive to cause losses intentionally to collect the proceeds.

Consequently, the inclusion of labor in the calculation of ACV would drive up the costs of insurance. ACV is not the appropriate coverage for the full cost of labor to restore property to its pre-loss condition. Payment for current labor costs required to repair property, when the insured has decided not to repair the property, would contravene the concept of indemnity. Replacement Cost policies already offer consumers the option of insuring the undepreciated replacement cost of their property. In effect, the ADOI is mandating that insurers blur the coverage distinction between an ACV and replacement costs by limiting the difference between these two coverage options to merely one - depreciation of materials.

Anyone who has had a contractor install a new roof or perform any repair work on their home, knows that labor costs are a big portion of the overall cost of the project. In fact, for certain projects, the labor cost exceeds the cost of the materials; therefore, insurers will have to pass on to the consumer this increased insurance coverage cost.

3) The DOL Prohibition is Unrelated to the Stated Public Policy Rationale of the ADOI

It is unclear how prohibiting depreciation of labor in the calculation of ACV will address the concerns from consumers that some contractors are requiring full payment in advance of completion repair work. If such a problem exists, it should be addressed as part of the contractual relationship between consumers and contractors. It really isn't an insuring agreement contract issue. More specifically, if a policy only provides ACV coverage the consumer will receive a payment up to the consumers agreed upon coverage limitation for the damaged property. Because the consumer did not



purchase replacement cost coverage, they must handle the cost differential between the insurance coverage benefits and the *present* market cost of replacement materials and *current* labor rates. The proposed legislation does nothing to change this contractual dynamic between the consumer and the contractor who demands payment for its work upfront.

As for replacement cost coverage, state and federal courts have routinely upheld contract terms and conditions that require proof of actual replacement/repair to secure the full benefit of the replacement cost coverage. Insurers typically pay the ACV value at the time the claim is made. The insurer pays the remaining portion of the insurance claim after the policyholder has provided proof that he/she has complied with the replacement/repair condition in the insurance contract. This approach is not only legally appropriate, but it is consistent with the very purpose of replacement cost coverage and the insurer's need to make sure that the paid claim is being used to remediate the covered loss or damages so that there isn't a new risk variable that needs to be considered at policy renewal time.

Now, if the ADOI's concern is that consumers are not clear as to how depreciation of labor works and how it is being explained to consumers, that is a totally different issue that can be addressed without this legislation, because the ADOI already has authority to review and approve policy language forms. NAMIC would welcome an opportunity to work with the ADOI to address any such consumer informed choice concerns the regulator may have, but the proposed prohibition of an insurance product option available to consumers is not an appropriate approach to addressing this issue.

For the aforementioned reasons, we respectfully request that SB 132 be amended to remove the DOL provision so that consumer choice as to the scope of the coverage they want and can afford is protected.

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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