

General Election Holds Several Surprises; NAMIC Warns of Likely Rate Hikes in Washington Following Pa

by NAMIC

Washington consumers will likely see their rates increase as a response to the expected impact of the voter-approved legislation, Referendum 67. The referendum, which passed with 57 percent of the vote, will allow triple damages to be assessed for "bad faith" denials of insurance claims.

"Washington state voters let fear prevail over fact this election year when they let the scare tactics of the trial bar lead them to ignore the facts surrounding insurer claims settlement practices and consumer claims experiences," said Christian J. Rataj, NAMIC's Northwestern state affairs manager.

The legislation would allow the filing of first-party bad faith lawsuits against carriers for punitive damages in cases where a carrier denies a claim, and the policyholder believes that the settlement denial was simply "unreasonable," including a "mere" unintentional technical violation of the Washington Administrative Code, Rataj explained. "It was much less restrictive than other states where claimants can only sue for denials that are willful, deceitful, or fraudulent," he said.

According to Rataj, Consumers Against Higher Insurance Rates, which NAMIC is a member, presented "clear and irrefutable" evidence to Washington state voters that settlement disputes between insurers and policyholders are statistically rare; current state law already protects consumers from unfair claims practices; and R-67 will create an unnecessary cost-driver that will lead to higher insurance rates for consumers.

"Unfortunately, the insurance and business communities' attempt to educate consumers about the truth and protect them from this 'sugar-coated poison pill' legislation was trumped by crafty lawyer misrepresentations about a couple of highly sensationalized, aberrational, and unrelated claims settlement disputes. It opens the door to frivolous lawsuits and will undoubtedly drive up insurers' expenses, leading to rate hikes." Rataj said. "Hopefully, voters in Washington will learn quickly, like California voters did, that this new 'pay-more-so-lawyers-can-sue-more' law is nothing but an anti-consumer protection act that only helps trial lawyers redirect policyholder premium dollars to trial lawyer bank accounts."

Rataj pointed to two recent studies that suggested the measure would drive up costs. The state budget office said the law would increase rates for consumers, state agencies, and local governments. The consulting firm Milliman, Inc. estimated the measure could cost Washington insurance consumers \$650 million annually or \$205 per year for an average family household. The Milliman report also showed that insurance rates went up in five states with similar laws and that consumers could see rate increases of up to 7 percent per household.

"This is an unfair and costly law driven by the trial bar simply to increase the number of lawsuits filed," Rataj said. "NAMIC will work with lawmakers and other stakeholders to repeal this law in the next legislative session."

In other election news, three states – Mississippi, New Jersey, and Virginia – held state legislative contests on Tuesday. The biggest news probably comes out of Virginia, where Democrats won four Senate seats and will take control of the state Senate for the first time in 12 years. In Mississippi, it also looks like Democrats may have won 27 of the 52 Senate seats, although several races are still too close to call. In New Jersey, Democrats picked up one seat in the Senate, lost two in the Assembly, but maintain control of both chambers.

Mississippi Republican state Sen. Mike Chaney won Tuesday's race for insurance commissioner, handily defeating Democrat Gary Anderson by a 57-43 percentage margin.

Chaney has served 15 years in the Legislature, the last seven as a state senator. In January, he will replace George Dale, the longest serving elected insurance commissioner in the country. Dale lost the August primary to Anderson.

"Senator Chaney proved during his legislative service that he understands the balance required to meet the needs of insurance consumers and companies," said NAMIC State Affairs Manager Liz Reynolds. "We're pleased that he will be taking the helm of the insurance commission in Mississippi."

In other statewide races, Gov. Haley Barbour easily won re-election, beating his Democratic opponent by a 58-42 percentage margin. Other statewide winners included former Republican state Auditor Phil Bryant, who won the lieutenant governor's post vacated by fellow Republican Amy Tuck. Democrat Jim Hood won re-election as the state's attorney general, beating his Republican opponent by a 60-40 percentage margin. Hood was the only Democrat to win statewide office.

As widely predicted, Democrat Steve Beshear won the gubernatorial race in Kentucky, defeating Republican incumbent Ernie Fletcher, whose first term in office had been plagued by a jobs scandal involving state merit employees. Democrat Jack Conway beat Republican lawmaker Stan Lee for attorney general, a position formerly held by Democrat Greg Stumbo.

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