

NAMIC Slams Minnesota Legislation as "Harmful to the Idea of Mutuality"

by NAMIC

A proposal to require insurance companies to pay fees and interest to Minnesota claimants who sue is unreasonable, encourages frivolous litigation, and undermines the concept of mutuality, according to the National Association of Mutual Insurance Companies (NAMIC). NAMIC member companies underwrite 55 percent of Minnesota's automobile insurance business.

The legislation essentially would "automatically grant interest and attorney's fees to claimants in actions against insurers," wrote Mark Johnston, NAMIC's Midwest state affairs manager. "Our opposition is broadly based on a number of reasons, including the fact that it is inimical to the core idea of mutuality found with mutual insurers."

The legislation, House File 417, allows insurance consumers to collect legal fees and interest of 12 percent per year in lawsuits involving commercial or professional coverage "even if the claimant loses on most aspects of the case. The insurance company must prevail on all aspects of litigation to escape payment, although the proposal does not impose the same requirement of claimants.

"As the bill is written, a claimant has an incentive to pursue litigation with little merit as it knows that it can inflict costs on the other side with the knowledge that it need not worry about having the cost shifted back to it," Johnston testified. "In many cases, claims for amounts less than the cost of defense will be pursued for nuisance settlement only."

In his testimony to the Minnesota House's Commerce and Labor Committee, Johnston said the legislation is bad for all property/casualty insurers, but for mutual insurers especially. "With mutual insurers, the owners of the company are the insureds," Johnston said. "HF 417, if passed, diminishes the rights of most of the mutual's policyholders in favor of those who will take advantage of the incentives the bill gives to frivolous litigation gamesmanship."

The proposal next goes to the Public Safety and Civil Justice Committee.

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