

Oregon State Legislature
Oregon State Capitol
House Committee on Business and Labor
900 Court Street NE
Salem, OR 97301

2/25/15

Sent via email to: jan.nordlund@state.or.us

Re: HB 2469, ORSA - NAMIC's Written Testimony

Dear Representative Holvey, Chair; Representative Barton, Vice-Chair; Representative Kennemer, Vice-Chair; and members of the House Committee on Business and Labor:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the committee for the February 25, 2015 public hearing. Unfortunately, I will be in another state at a previously scheduled legislative meeting at the time of this hearing, so I will be unavailable to attend. Please accept these written comments in lieu of my testimony at the hearing. This letter need not be formally read into the committee hearing record, but please reference the letter as a submission to the committee at the hearing.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 153 members who write property/casualty insurance in the State of Oregon, which represents 46 percent of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC appreciates the importance of adopting the National Association of Insurance Commissioner's (NAIC) Own Risk and Solvency Assessment Act (ORSA) for consumer protection and NAIC accreditation of the Oregon Insurance Division (OID). NAMIC supports HB 2469 as being closely aligned with the NAIC ORSA Model Act. The only area where NAMIC has some concern pertains to Section 9 on confidentiality protection of an insurer's trade secrets, confidential information, and proprietary documents.

Confidentiality is a major issue in the ORSA Model Act and it was extensively discussed at the NAIC. If Oregon's confidentiality protection is not at least as strong as other state laws in protecting the information from disclosure, those states may not be willing to provide ORSA information to Oregon or bring the Oregon DOI into discussions about the company's ORSA Report. This is acutely important when there are holding companies domiciled in other states with some of their legal entities domiciled in Oregon.

Section 9 of the proposed legislation specifically references ORS 705.137, ORS 705.138, ORS 705.139 and ORS 731.312 to expressly address confidentiality protections provided to insurers. NAMIC's review of these statutes support the conclusion that the confidentiality provisions in HB 2469 are consistent with the NAIC ORSA Model Act. NAMIC would suggest that the following amendment offered by one of NAMIC's insurance company members be added to Section 9 to resolve some ambiguity in the confidentiality protection being provided to insurers in their ORSA activities. Clarity is in the best interest of both insurers and regulators.

Suggested revision to Section 9:

SECTION 9. (1) All documents, materials or other information, including any own risk and solvency assessment summary report, in the possession of or control of the Department of Consumer and Business Services that are obtained by, created by or disclosed to the Director of the Department of Consumer and Business Services or any other person in the course of implementing sections 2 to 9 of this 2015 Act are proprietary and recognized as containing trade secrets and therefore subject to the provisions of ORS 705.137, 705.138, 705.139 and 731.312, and, except as permitted in those provisions, the director may disclose such documents, materials or other information only after receiving the written consent of the affected insurer. All documents, materials or other information described in this subsection are privileged and confidential and are not subject to disclosure under ORS 192.410 to 192.505.

~~(2) Notwithstanding subsection (1) of this section, the director may:~~
~~(a) Use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the director's official duties.~~
~~(b) Upon request, share documents, materials or other information related to an own risk and solvency assessment, including confidential and privileged documents.~~
~~(c) Share documents or materials or other information related to an own risk and solvency assessment with any third-party consultants designated by the director, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials or other information and has verified in writing the legal authority to maintain confidentiality and privilege.~~
~~(3) The director may disclose documents, materials or other information under subsection~~
~~(2)(a) or (b) of this section only upon receiving the written consent of the affected insurer.~~

(24) In addition to the requirements of ORS 705.137, 705.138 and 731.312, the director shall enter into a written agreement with the National Association of Insurance Commissioners or a third-party consultant that:

(a) Prohibits the National Association of Insurance Commissioners or a third-party consultant from storing the information shared under sections 2 to 9 of this 2015 Act in a permanent database after the underlying analysis is complete; and

(b) In the case of an agreement involving a third-party consultant, provides for the insurer's written consent to be given before any disclosure may occur.

Thank you for your time and consideration of NAMIC's comments and suggested revision to HB 2469. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you have any questions pertaining to my written testimony.

Respectfully,

A handwritten signature in black ink, appearing to read "Christian J. Rataj". The signature is fluid and cursive, with a large initial "C" and "R".

Christian J. Rataj, Esq.
NAMIC's Senior Director State Affairs -Western Region