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Testimony of the Department of Commerce and Consumer Affairs

**Senate Committees on Commerce and Consumer Protection
and Public Safety and Intergovernmental and Military Affairs
Wednesday, February 7, 2024
9:35 a.m.**

State Capitol, Conference Room 229 and via Video Conferencing

**On the following measure:
S.B. 3230, RELATING TO INSURANCE**

Chairs Keohokalole and Wakai and Members of the Committees:

My name is Gordon Ito, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department opposes this bill.

The purpose of this bill is to establish ratemaking regulations for insurers who adjust rates or premiums on policyholder or applicant's wildfire risk; amend the definition of "prospective loss costs" to incorporate catastrophe modeling instead of historical aggregate losses; prohibit insurers from basing certain insurance rates on past loss experience within or outside the State; require insurers to provide a list of items that may be covered under a homeowners insurance policy issued or renewed on or after January 1, 2025, as additional living expenses when a claim for additional living expenses is made; if a loss relating to a state of emergency occurs, requires coverage for additional living expenses for a period of not less than 24 months from the loss, subject to other policy provisions; require that coverage for additional living expenses

not limit a policyholder's right to recovery if the insured home is made uninhabitable by a covered peril and allows an insurer to provide a reasonable alternative remedy that addresses the property condition that precludes reasonable habitation of the insured premises; require additional living expenses coverage for at least two weeks for certain losses incurred if a state of emergency is accompanied by an order of civil authority restricting access to the home; beginning on January 1, 2025, require each newly issued or renewed homeowners insurance policy that covers a property within the State to provide for the replacement cost value of the insured property; and amends the determination of over-insurance under section 431:10E-102, HRS.

We sympathize with the intent of addressing concerns that have arisen in the aftermath of the Maui wildfires. However, Part I of this bill is not necessary as Hawaii Revised Statutes (HRS) chapter 431, article 14 already provides for property insurance rate regulation.

Part II of this bill would remove historical loss data from ratemaking. Historical loss information is fundamental to rate review and approval. This bill would remove information that is critical for an accurate and adequate rate process. Catastrophic modeling is a tool for ratemaking but does not replace the need for historical loss information. Part III of this bill may result in higher premiums, influence property insurers' decisions to remain in Hawai'i, discourage new insurers from entering Hawai'i, and ultimately make it more difficult for property owners to obtain insurance.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF MICHAEL ONOFRIETTI

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS
Senator Glenn Wakai, Chair
Senator Brandon J.C. Elefante, Vice Chair

Wednesday, February 7, 2024
9:35 a.m.

SB 3230

Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection, and Chair Wakai and Vice Chair Elefante, and members of the Committee on Public Safety and Intergovernmental and Military Affairs, my name is Michael Onofrietti, ACAS, MAAA, CPCU, Senior Vice President, Actuarial Services, Product Development & Management for Island Insurance and Chairman of the Auto Policy Committee for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit association of property and casualty insurance companies licensed to do business in Hawaii. Members companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council (HIC) **opposes** this bill. This bill adds a new part to article 14 that contains many provisions that could adversely affect consumers by increasing costs and could cause additional pressure on insurers in Hawaii. This in turn may lead to marketplace retraction or exit.

Part I. Provisions and requirements for Wildfire risk models. This part is premature as there are currently no wildfire models for Hawaii that exist. There are other bills introduced this session that would require wildfire models be established and until such time a model is accepted by insurers and reinsurers, this part should not be implemented as a Hawaii wildfire model eventually may be developed that could make the bill's provisions inapplicable or unworkable.

Part II. Ratemaking, all lines of insurance. This part prohibits the use of historical aggregate losses in or out of the state and allows only prospective loss experience and catastrophe modeling for ratemaking of all property and casualty insurance premiums. There are several problems with this as an approach to pricing insurance. Catastrophe modeling is inadequate to price most risks paid for under property and casualty insurance policies. There are no Hawaii wildfire catastrophe models, yet our community is now tragically aware of that risk. There are also no “catastrophe models” available to predict water damage, theft, slip-and-fall, workplace injuries, and all other frequent loss occurrences.

Of equal importance is that the basis for prospective loss experience is historical loss experience. The trend in historical losses is one of the essential tools used by actuaries to project losses into the future. Law changes, regulatory changes, and change in the rate of the appropriate inflation metrics are also important tools. Insurers should be able to use past and prospective data and catastrophe modeling where available in ratemaking. The statutory purpose of achieving an adequate rate is to ensure insurers can pay claims promptly and fully. We believe the changes in this part inhibit insurers' ability to do so. More significantly, this type of legislation may in fact lead to insurers restricting new business and potentially leaving the state. Our market in Hawaii is small and fragile, particularly our property insurance market, due to issues with condominium buildings and the aftermath of the Lahaina tragedy.

Creating obstacles to achieving rate adequacy will be harmful to Hawaii consumers and businesses by reducing the availability of insurance. If there are fewer or no insurers in the admitted market to underwrite Hawaii's property and casualty insurance, including motor vehicle, property, general liability, and workers' compensation insurance coverage, available options in all likelihood will be more expensive and/or unregulated.

Part III. This part adds provisions for an additional living expenses (ALE) list to be provided to the insured, requires time extensions in a state of emergency, and mandates replacement cost in property policies. In new Section 431:10E-____(b), the bill mandates certain extensions of time for ALE, but leaves out a significant factor and that is the policy's dollar limit.

Any extension of time needs to be subject to the insurance policy's limit for that coverage. If the policy has no dollar cap, the liability is greatly expanded, and premiums will reflect the exposure.

Subsection (c) requires ALE without limitations if the home is rendered uninhabitable. The bill does not specify who makes this determination and it should be the insurer or the insurer's representative. The bill also does not appear to limit subsection (c) to declared emergencies.

Subsection (d) requires ALE for civil authority restricting access to the home. The bill requires 2 weeks of ALE which is already in many property policies but adds new coverage of additional 2-week extensions with no end, based on "good cause." This creates an unlimited and unknown liability that could dramatically increase premiums. For example, the Emergency Proclamation issued on August 8, 2023 because of the Maui wildfires is still in effect until February 15, 2024. Subsection (d) also does not specify the civil authority coverage must be subject to the policy limit.

The next new section relating to replacement cost mandates that the homeowner's insurance policy provide for replacement cost instead of actual cash value coverage for what appears to be dwelling, other structures, and personal property. The provision makes no allowance for policy limits and therefore, if replacement cost were required for dwelling, other structures, and personal property, the cost of this insurance policy would be extremely high. It would also create a tremendous moral hazard of underinsurance if a homeowner could be assured of enhanced coverage for which they did not pay.

Section 5 of the bill amends the over-insurance part of law in section 431:10E-102 by adding the definition of "replacement cost value" and deleting the provision for actual cash value. This amendment should be deleted because it would conflict with section 431:10E-103 which already states exceptions to section 431:10E-102, such as replacement cost and law or ordinance requirements.

We believe this bill will adversely impact all property and casualty insurers, and ultimately all consumers, in the state and we ask that this bill be held. Thank you for the opportunity to testify.

TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) WITH COMMENTS ON SB 3230

Date: Wednesday February 7, 2024

Time: 9:35 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) with COMMENTS on SB 3230, RELATING TO INSURANCE.

In light of the recent Maui Wildfire in August 2023, HAJ appreciates the legislature considering the concepts proposed in this measure which intends to promote greater consumer protection during emergency responses. First and foremost, HAJ expresses its condolences for the individuals lost in the August wildfire.

As background, HAJ is an association focused on consumer protection policies. In support of the Maui wildfire recovery efforts, HAJ members have: 1) provided pro bono volunteer legal services for victims on a wide range of legal matters including insurance claims; 2) assisted with the Hawaii State Bar Association (HSBA) hotline; 3) gathered and advocated for monetary contributions for the Hawaii Community Foundation (HCF) and the HSBA Foundation; and 4) volunteered on the frontlines of recovery by staffing both government and community-based relief tents in the days and weeks following the tragic blazes.

Through our members volunteer efforts, HAJ has found that many residents have expressed concerns relating to insurance. Primarily HAJ appreciates the legislature discussing providing additional access to additional living expenses following a disaster. Allowing access with loosened inventory requirements may relieve impacted resident concerns immediately following a disaster or emergency.

HAI applauds the legislature's current handling of the Maui wildfires response and seeks to support consumer protection measures in connection with recovery as well as potential future emergency situations.

We fully understand and acknowledge that these are complex matters that require further refinement, however, HAI is grateful for the legislature hearing this measure and considering consumer rights. Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.



SanHi

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 6, 2024

TO: Senator Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection

Senator Glenn Wakai
Chair, Committee on Public Safety and Intergovernmental and Military Affairs

FROM: Matt Tsujimura

RE: **S.B. 3230 – Relating to Insurance**
Hearing Date: Wednesday, February 7, 2024, at 9:35AM
Conference Room: 229

Dear Chair Keohokalole, Chair Wakai, Vice Chair Fukunaga, Vice Chair Elefante, and Members of the joint Committee:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers testimony **in opposition** to S.B. 3230 – Relating to Insurance.

State Farm supports effort by individual homeowners and communities to take actions to mitigate losses related to wildfires. We encourage the Legislature to look to entities like the Institute for Business & Home Safety for scientific data relating to individual mitigation efforts and Firewise USA to help define actions that can be taken by communities to reduce wildfire risk. Wildfire mitigation is about completing a series of mitigation measures on a property and in the community, and then maintaining the entire series of mitigation measures over time. One or two mitigation measures may not do much on their own, it is the entire series of mitigation measures that creates protection for the home and reduces the risk. Because data about wildfire mitigation can change over time, the efforts taken must be re-evaluated on a regular basis making it difficult to tie wildfire mitigation efforts to rating.

S.B. 3230, while well intended, adds new complexities to a fragile property insurance market. The transparency requirements, requirements relating to mitigation, and the mandates relating to wildfire risk models and wildfire risk score will have a significant impact on availability and affordability. Passing laws that place restrictions on insurers or require them to publicly disclose proprietary information may discourage insurers from entering the market and/or cause insurers to evaluate the types of products and services offered.

State Farm is also concerned about language in Part II of the bill that would restrict the use of historical data in ratemaking. Ratemaking is already prospective, with no attempts to recoup for past losses. However, historical loss experience is a foundation for projected losses. All prospective models or views of loss are based on past,

historical data. S.B. 3230 would significantly impact the way insurers price risk. Companies would not have a way to determine appropriate rates thereby impacting the products they offer in Hawaii.

Finally, S.B. 3230 will limit consumer choice while adding expense. Today, consumers choose between different insurers and select products based on individual needs and their financial situation. S.B. 3230 would eliminate choice by requiring all insurers to offer the same product. The proposed extension of additional living expense benefits following an emergency declaration and the requirement to provide “replacement cost benefits” are not unreasonable options. However, making the coverages mandatory will increase the cost of the policy, especially if these benefits must be provided without any consideration for the coverage limits.

State Farm is cognizant of the challenges the state faces as it continues to recover from the devastating wildfires in Lahaina. We understand the desire to identify solutions for consumers to reduce the risk of future wildfire losses while also working to ensure insurance products are readily available and affordable. However, State Farm is concerned the public policy proposals set forth in S.B. 3230 will limit consumer choice and result in increased insurance costs. For these reasons, State Farm asks the Committee to **hold S.B. 3230**.

Thank you for the opportunity to submit this testimony.

To: The Honorable Jarrett Keohokalole, Chair
 The Honorable Carol Fukunaga, Vice Chair
 Senate Committee on Commerce and Consumer Protection

 The Honorable Glenn Wakai, Chair
 The Honorable Brandon J.C. Elefante, Vice Chair
 Senate Committee on Public Safety and Intergovernmental and Military Affairs

From: Mark Sektnan, Vice President

Re: **SB 3230 - Relating to Insurance**
 APCIA Position: Oppose

Date: Wednesday, February 7, 2024; 9:35 AM

Aloha Chairs Keohokalole and Wakai, Vice Chairs Fukunaga and Elefante and members of the Committees:

The American Property Casualty Insurance Association respectfully *opposes* **SB 3230** which would impose burdensome regulatory requirements on insurers who consider wildfire risk in their underwriting. The bill would also mandate extended time periods for rebuilding and require the sale of replacement cost policies. The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

PART I - Wildfire Risk Models

This section appears to be modeled after similar burdensome regulations recently adopted in California, including multiple provisions which APCIA opposed. Recognizing the costly, cumbersome, and overly prescriptive nature of the provisions, and the unintended consequences the California regulation has had on the market, other states have taken a less prescriptive approach. Recognizing these challenges and potential adverse impacts for Hawaii consumers, APCIA opposes the language proposed under this bill and strongly recommends against enacting into Hawaii statute.

Here are some of the key issues:

- Wildfire risk models must be submitted to the Insurance Commissioner and open for public inspection.

APCIA is not opposed to insurers filing wildfire risk models with the Commissioner if reasonable and appropriate confidentiality protections are provided. However, failure to provide such intellectual property protections often can result in trade secret violations and in turn could prevent the most advanced modeling tools from being made available to Hawaii insurers, as modeling firms choose not to expose their propriety information. Modeling firms routinely work with insurance regulators in other states to provide access to how their models work, while not exposing to the public their specific algorithms. California is an outlier in this regard, and we encourage the bill sponsor to ensure appropriate confidentiality protections.

- Requires rates to ‘reflect’ individual mitigation actions taken to reduce wildfire risk.

This concept also largely follows the ‘Safer from Wildfires’ list of mitigations included in the California regulations and unfortunately contains many of the same flaws. The Insurance Institute for Business & Home Safety (IBHS), the leading mitigation experts in the field, developed an evidence-based mitigation framework for wildfire, known as the ‘Wildfire Prepared Home’ program. Science shows property owners must complete a set of actions that, when taken together, can protect a home from embers, heat, and flames to prevent ignition.

In this regard, the California regulation is widely recognized among insurers and the fire suppression community as flawed, as requiring insurers to incentivize *individual* actions will not achieve the desired outcome, which is to prevent ignition of the structure. For example, installing ember proof screens while maintaining a combustible wood roof has not been scientifically shown to meaningfully reduce risk. Premium credits for mitigation actions must correlate to an actual expected reduction in risk and be based on actuarial science.

- Requires companies to implement specific written procedures within 180 days of adoption.

This requirement will place a huge burden on insurers to implement the program and the prescribed 180-day time frame for compliance may be too short. The programming, servicing and other operational costs associated with identifying and providing a risk score to consumers, in addition to the proposed appeals process, is a significant and costly undertaking. In some cases, insurers in California have indicated the challenges and costs for compliance were untenable for their business model and made a difficult decision to exit the admitted market. Recognizing the unique insurance market in Hawaii, similar challenges could arise as insurers consider their ability to be compliant.

PART II - Section 2. "Prospective Loss Costs"

- This section would redefine “prospective loss costs” to remove reference to historical aggregate losses and replace with catastrophe modeling.

APCIA has significant concerns about these provisions. Catastrophe models incorporate numerous data inputs, including historical losses, to more accurately identify risk and ultimately inform prospective loss costs. While many insurers may utilize catastrophe models, this may not be the case for all insurers, or for all lines of business. Thus, it is important to provide insurers adequate flexibility to use various tools and methodologies that best meet their individual business needs.

PART III - Claims for Additional Living Expenses Under Homeowners Insurance Policies; States of Emergency.

- SB 3230 requires insurers to provide additional living expense coverage for a period of up to 24 months after an emergency with a 12-month extension, and also allows additional time for a “reasonable delay”.

APCIA is concerned that “reasonable delay” is not well defined and could result in conflicts between insurers and policyholders. Additionally, the language as proposed could result in perpetual extensions that is an exposure that is difficult for insurers to model and price.

- The bill also requires these new requirements to apply to any policy issued or non-renewed after January 1, 2025.

The proposed timeframe is insufficient for insurers to determine the appropriate rates and for the Department of Insurance to approve the updated rates.

Prohibition on Limiting Right of Recovery if The Property is Uninhabitable.

- The bill allows for insurers to provide a reasonable alternative remedy to address the property conditions that preclude reasonable habitation.

APCIA supports the flexibility to provide a reasonable, alternative remedy, however, is concerned about the lack of a definition on what constitutes “uninhabitable”. If insurers are required to provide a remedy, there must be a clearly defined standard and period of coverage, which results from a covered loss.

Replacement Cost Value; Homeowners Insurance Policies.

- This provision would require replacement cost coverage in all homeowners’ policy and redefines “replacement cost” to include inflation and building code requirements, less a deductible.

APCIA is concerned about this provision as the language as proposed would essentially require insurers to provide “guaranteed replacement cost” coverage. Most insurers offer “replacement cost” coverage, which is based on the current estimated cost to reconstruct a home, up to purchased limits. A policy with “guaranteed replacement cost” coverage

essentially eliminates the coverage limits, providing an unlimited amount of coverage to rebuild a home back to the previous size, features, and specifications.

This type of coverage is typically not available in disaster-prone regions, as the extent of loss and potential ‘demand surge’ effects are very challenging to model and ensure adequate premiums are collected. As such, few carriers provide this option, in states where it may be available. Thus, this provision will create a significant and costly burden for insurers to develop a new product offering and would likely result in coverage becoming cost prohibitive for most consumers. This may also result in challenges for insurers to secure adequate reinsurance or other forms of capital, which may additionally have the unintended consequence of reducing availability of coverage.

APCIA does not believe this is the intent of this provision and strongly opposes this language. Instead, in light of recent record inflation following the COVID-19 pandemic, APCIA encourages applicants and policyholders, often working with their agent, to review their coverage to determine the appropriate policy limits that best meets their needs and budget. This may include reassessing their current policy limits based on current costs to reconstruct their property, and considering purchasing optional coverages, such as an extended replacement cost coverage endorsement, which increases the coverage limits to reconstruct the home when costs surge following a disaster, or increasing ordinance & law coverage benefits, to help cover the costs associated with meeting more recent building codes or green energy ordinances. Such coverage options are currently available to consumers to help address individual coverage needs and budgets.

For these reasons, APCIA respectfully asks the committee to **HOLD** this bill in committee.

Hawai'i State Legislature
Senate Committee on Commerce and Consumer Protection
Senate Committee on Public Safety and Intergovernmental and Military Affairs

February 6, 2024

Filed via electronic testimony submission system

RE: SB 3230 - NAMIC's Testimony in Opposition

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 7, 2024, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

The National Association of Mutual Insurance Companies (NAMIC) membership includes nearly 1,500 member companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC member companies write approximately \$1.8 billion in annual premiums.

NAMIC and its members support pragmatic, pro-consumer public policy thoughtfully designed to improve the availability and affordability of property insurance for consumers. Consequently, we support the bill sponsor's noble intentions. Unfortunately, SB 3230 may sound like a pro-consumer protection bill, but in practical reality it is an unnecessary, overly-broad and complex bill that is more likely to confuse consumers, lead to unnecessary insurance rate costs for consumers, deny policyholders of important consumer-choice as to what they need and want in their insurance products, and adversely impact insurers in their ability to match rate to risk of loss exposure. NAMIC is concerned that the bill will actually harm not help the vast majority of insurance consumers in the State of Hawai'i.

NAMIC respectfully submits the following legal, public policy, and practical application concerns and questions to the committees for consideration:

A) Public Policy Concerns with SB 3230:

1) How does creating unnecessary insurance rate cost-drivers benefit consumers who are struggling, in today's inflationary world, to pay for the necessities of their life?

The proposed legislation is loaded with new administrative burdens, consumer disclosure requirements, coverage mandates, impractical and unworkable underwriting restrictions, and fundamental changes to the insurance relationship that will likely lead to increased insurance costs and new financial challenges for insurance consumers.

As President Lyndon B. Johnson famously said “[N]othing comes free. Nothing. Not even good, especially not good.”

The undeniable reality of our complex existence in life, with its many financial pressures pulling in different directions, begs the question – *Are all the proposed requirements in the bill worth the financial burdens they will likely create for consumers?* We all know, that cost is the number one consideration for many consumers in their decision-making, so is more confusing disclosures, they are unlikely to even read, about highly complex risk modeling, wildfire risk scoring, and insurance underwriting practices what they want and need?

SB 3230 is rife with provisions that “sound good and feel good” but public policy is about doing actual good and there are a number of provisions in the proposed legislation that will do actual harm to the majority of consumers, who will be forced to pay for coverages and disclosures they will likely never utilize or benefit from in their lifetime. Yes, the horrific tragedies on Maui and on Oahu make us all want to consider creating the perfect, most comprehensive insurance product imaginable to protect consumers ... *but at what cost to consumers is the difficult and important public policy question.*

2) Why should insurance consumers be denied the right to make personal decisions about how best to use their finances to protect their home and assets?

SB 3230 has a number of mandates that deny consumer choice. For example, the proposed legislation would require the following:

- *Beginning on 1/1/2025, requires each newly issued or renewed homeowners’ insurance policy to provide for the “replacement cost” value of the insured property.*

“Replacement cost” as opposed to “actual cash value” is undeniably more expensive for consumers and may not be necessary or desirable for a consumer’s personal tangible property. Consumers should have the choice to decide what they need, want and can afford to pay in insurance coverage protections, whether it be for the contents coverage or their home or the rebuild of their house. Mandating coverage for increased cost in rebuilding a home resulting from “demand surge” after a wide-scale natural disaster event and increased costs for new building codes and local ordinances drive-up the cost of insurance for consumers. If a policyholder wants these additional coverage protections they are *currently available* for the consumer to purchase. *So why force consumers who don’t want or can’t afford these additional coverages to have to pay for them?*

From a public policy perspective, it is akin to mandating every driver on the road may only drive a motor vehicle that has every single state of the art safety feature for their protection, even if that means the person is financially forced out of the motor vehicle ownership market. *Perfect and expensive protection should not become the enemy of good and cost-effect protection.*

Consumers make decisions upon how much of an insurance deductible they want as part of their personal risk of loss sharing with the insurer so as save premium money, why shouldn’t they have the same right to decide how much of the coverage protection they are willing to personally accept to save on insurance premium?

B. Legal Concerns with SB 3230:

The proposed legislation would require insurers to engage in anti-competitive, possibly even anti-trust protection related, disclosure behavior to the detriment of consumers.

SB 3230 states that:

Any risk model described in subsection (a) and any additional documentation requested by the insurance commissioner during the review of any applicable rate application, including any records, data, algorithms, computer programs, or any other information used in connection with the rating plan or wildfire risk model used by the insurer and provided to the insurance commissioner, shall be made available for public inspection, regardless of the source of the information or whether the insurer or the developer of the rating plan or wildfire risk model claims that the rating plan or wildfire risk model is confidential, proprietary, or a trade secret. (Emphasis Added)

This provision is concerning for a number of reasons. Most importantly, it is anti-market competition, which means that it is anti-consumer. Competition between competitors in a marketplace creates product options and differing price points for consumers to consider and benefit from. If insurers have to disclose their risk models to the public and waive confidentiality, proprietary intellectual property rights and trade secrets, the insurance market will end up with a “one-size fits all” type insurance product that would be detrimental to consumers.

Additionally, the proposed disclosure requirement could have a devastating impact upon the availability of insurance for consumers in the state. *How can national insurers or national risk modelers, who spend millions of dollars developing proprietary intellectual property rights to assess risk, justify waiving those legal protections nationally for a single state market?* That would be illogical and untenable as a financial business practice. Further, this proposed requirement would create legal liability exposure for insurers who may not have the legal right to disclose models they merely use pursuant to a contract with the developer of the risk model or wildfire risk score. Requiring insurers to violate legal contracts with third-party vendors is not good public policy and would not be beneficial to consumers who want and need insurers to use the best risk assessment tools available to match rate to risk.

C. SB 3230 is inconsistent with basic insurance risk of loss principles and would impose impractical and unworkable requirements on insures to the detriment of consumers.

1) The proposed legislation is inconsistent with the very concept of risk-based pricing of property insurance.

The basic principle of risk-based pricing is that as the risk goes up - the rate goes up ... and as the risk goes down - the rate goes down. Thus, the operative question is - does a single particular community-wide or individual homeowner mitigation activity actually reduce the risk of loss exposure for a homeowner? If the answer is no or the data is inconclusive, how can a rate be reduced and the rate still be actuarially sound?

The proposed legislation has some concerning provisions that are inconsistent with the leading research on wildfire risk mitigation (Please refer to Insurance Institute for Business and Home Safety materials and research) and would force insurers into making actuarially unsubstantiated and improper risk mitigation valuation decisions (i.e. associating an arbitrary and uniform rating discount on a particular mitigation activity that may not be consistent with wildfire risk science) that would not be good for the financial health of the insurance marketplace or good for insurance consumers.

Specifically, SB 3230 states that an insurer must disclose to the consumer; thereby, arguably making it part of the insuring agreement:

The amount of premium reduction under the insurer's rating plan that is in effect at the time that the policyholder or applicant would realize as a result of performing each mitigation measure identified under paragraph (4). (Emphasis added)

This proposed requirement is not only an inaccurate over-simplification of the interactive relationship between all the various individual property owner risk mitigation activities and community-wide risk mitigation activities that each individually and collectively influence, coordinate with, and ultimately impact the evaluation of whether there is any actual wildfire risk mitigation for the community and property owner, but it is also dangerously misleading to consumers, who may then falsely believe that if they do one or two risk mitigation activities they have meaningfully reduced their wildfire risk exposure.

NAMIC is also concerned about the provision in the bill that prohibits consideration of claims history, which is a long-standing and well-established part of risk of loss assessment, and arguably an inextricable part of modeling. NAMIC believes that insurance consumers deserve the benefit of a totality of factors consideration of their risk of loss exposure when insurers match rate to risk.

2) SB 3230 would impose costly, impractical and unworkable underwriting and consumer disclosure requirements that are far more likely to confuse consumers than educate them.

In effect, the proposed legislation would require insurers to become wildfire risk mitigation abatement experts. That is not and should not be the role of property insurers. There are professional organizations that specialize in this highly technical subject matter and offer comprehensive expertise on fire prevention and mitigation that homeowners can utilize to better protect their homes and family.

For the aforementioned reasons, NAMIC asks for a No Vote on SB 3230, and we welcome an opportunity to work with the bill sponsor and other interested stakeholders in working on practical pro-consumer protection property insurance provisions that facilitate meaningful informed consumer-choice in insurance coverages, and promote actuarially sound and cost-effective risk-based pricing.

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,



Christian John Rataj, Esq.
NAMIC Senior Regional Vice President
State Government Affairs, Western Region

SB-3230

Submitted on: 2/4/2024 8:10:53 PM

Testimony for CPN on 2/7/2024 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
Tamara Paltin	Individual	Support	Written Testimony Only

Comments:

Support SB3230