



Written Testimony

SB22-094 - Insurer Liability for Property and Casualty Claims Oppose

The National Association of Insurance and Financial Advisors (NAIFA) Colorado has members who serve individuals, families, and businesses across the state. They provide their clients with products, services, and guidance that increase financial literacy and protect against life's inherent risks. NAIFA-Colorado helps consumers properly prepare for retirement as well as helping them to create financial security and prosperity.

NAIFA-Colorado is submitting this testimony and requesting the committee's opposition to SB22-094 – Concerning Insurer Liability for Property and Casualty Claims.

SB22-094 would require a first-party claimant in property and casualty insurance claims be reimbursed for costs incurred to substantiate the claim. Although this may sound reasonable, this change could increase premiums for consumers, which is the reason NAIFA-Colorado is opposing the bill.

SB 94 creates what are known as *"one-way fees"* that drive insurance premiums for consumers by adding unchecked, extra fees to most insurance claims.

SB 94 would allow an unlimited number of third parties--such as auto body shops, public adjusters, or any other vendor--to collect additional fees from insurance companies for *"reasonable"* claims investigations, driving up insurance costs.

Under SB 22-094 the body shop could issue a fee for costs to *"substantiate the claim"* by finding additional damage. The insurer must then pay the extra fee because a payment was made *"in excess of the initial payment made by the insurer"* increasing the overall cost of the claim with no additional benefit for the consumer.

SB 94 would add costs for Colorado consumers for the sole benefit of third parties.

This does not create *"balance"* in the insurance claim system. It adds a new system of hidden, unchecked fees.

Please oppose SB22-094.



February 16, 2022

The Honorable Robert Rodriguez
Chair, Senate Business, Labor and Technology Committee
and Committee Members
Colorado State Senate
200 E. Colfax Avenue
Denver, CO 80203

Sent Via Email

RE: APCIA and NAMIC Oppose SB 94, Insurer Liability for Property and Casualty Claims

Dear Chair Rodriguez and Members of the Committee:

The American Property Casualty Insurance Association (APCIA) and National Association of Mutual Insurance Companies (NAMIC) appreciate the opportunity to share our opposition to Senate Bill 94, Insurer Liability for Property and Casualty Claims. APCIA and NAMIC are the largest property and casualty insurance trade associations in the country, and collectively our members include a wide range of companies from small, single-state mutual companies to some of country's largest national insurers.

SB 94 would entitle first-party claimants to costs if any payment is made by an insurer above an initial claim payment. The bill would do tremendous damage to the claim payment process in Colorado, delay initial claims payments, inflate policyholder costs, and hurt both policyholders and the insurers seeking to serve them.

This bill fails to recognize that adjusting a property and casualty claim is a complex and iterative process.

In the claims process it is common for a preliminary payment to be based on the estimate of loss, and a supplemental payment will be issued as repairs are completed. This iterative process was recognized by the Colorado Division of Insurance in a consumer advisory offering tips on filing claims: "[K]eep in mind that during the repair process your contractor or repair facility may identify

additional damage. They should submit a supplement to the insurer for approval and payment of the additional damage discovered.” “Crazy Day of Winds will Mean Homeowners, Auto Insurance Claims,” Colorado Div. of Insurance, December 16, 2021.

In other cases, there may be a disagreement between the insurer and policyholder on either the scope of loss, such as if additional damage is found that was not initially identified, or on the amount of loss due to damage. In such cases, more information may need to be obtained to determine if an additional payment is needed, through additional inspections or using an independent appraiser. If so, a supplemental payment will be issued for the additional claim amount.

Each of these scenarios is a common and customary process in the adjustment of a claim. These steps help ensure a fair and reasonable settlement, while minimizing potential fraud or excessive payments.

SB 94 discourages negotiation or compromise.

An insurer paying one penny above the initial payment would trigger fees and costs. For auto and home repair claims, the initial estimate is often just that - an estimate - and in many cases there is additional damage discovered, or legitimate uncertainties about the ultimate repair or replacement cost. Also, as current economic conditions illustrate, some materials may simply be unavailable at a certain price, thus requiring an additional payment once an item is purchased. The inability to recognize these reasonable differences without triggering liability for potentially exorbitant fees could bring the claims negotiation process to a crashing halt.

This legislation would require an insurance company to pay the fees associated with “reasonable costs to incurred to substantiate the claim.” This provides unique incentives for out-of-state public adjusters and vendors to come to Colorado after a disaster to collect these fees from policyholders’ claims that likely could have been settled during the natural course of the claim. These fees will actually incentivize disputes as evidenced by the fiscal note on the bill which notes an expected 25% increase in consumer complaints to the DOI. The bill also would make Colorado a significant outlier in how this issue is handled.

If consumers are dissatisfied with their claim Colorado already regulates unfair claims settlement practices by insurers (see Colorado Revised Statute Title 10, Insurance section 10-2-1104 (1)(h)). Such conduct in violation of the law is punishable by the Colorado Insurance Commissioner. In addition, Colorado law also allows a consumer to sue their insurer for “bad faith” if an insurance company does not uphold their responsibilities under the insurance contract. In the case of bad

faith litigation, the law allows the court to award attorneys' fees and costs. Therefore, there is already a remedy in statute that allows for reasonable costs if an insurer acts in "bad faith."

If enacted, the provisions of SB 94 would have only one singular impact for Colorado insurance consumers - **to significantly increase the costs associated with settling insurance claims.** For out-of-state public adjusters and vendors, SB 94 would make Colorado a state to make a quick windfall after a disaster.

For the above reasons we respectfully urge you to oppose SB 94. Please let us know if we may provide additional information or answer any questions. Thank you for your consideration.

Sincerely,



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