

September 8, 2020

Members of the Texas House Insurance Committee

Via email to Sergio.Cavazos_HC@house.texas.gov

Re: Interim charge 2

Dear Chairman Lucio and Members of the Committee:

On behalf of the National Association of Mutual Insurance Companies (NAMIC),¹ thank you for the opportunity to provide comments on the interim charges of the Texas House Committee on Insurance.

This letter offers comments on interim charge 2, which asks the committee to “[s]tudy the adequacy of the state’s insurance laws on regulating the introduction of insurtech products into the Texas insurance market,” to examine related issues involving the use of technology in the insurance industry, and to “examine the pros and cons of adopting a regulatory sandbox and consider sandbox programs that are implemented in other states.” Given the very wide range of topics included in this charge, NAMIC’s comments will be fairly general. If there are other, specific components of this charge on which you would like NAMIC’s feedback, please let me know and I will be happy to provide it.

NAMIC strongly supports innovation in the insurance industry: innovation both in the technology used throughout the insurance value chain, and in the insurance legal and regulatory system to allow for flexibility that promotes the development of new technologies, products, and services that broadly benefit society. There are also specific areas of state law, as discussed in more detail below, where NAMIC supports reasonable modifications to allow the deployment of this technology.

The remainder of these comments will focus on the concept of “regulatory sandbox” as contemplated in the charge, and on specific areas of law or regulation where changes may be warranted regardless of any sandbox initiatives.

¹ NAMIC is the largest property and casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies as well as some of the country’s largest national insurers. Nationally, NAMIC members companies write \$273 billion in annual premiums, and our members account for 58 percent of homeowners, 44 percent of automobile, and 30 percent of the business insurance markets. NAMIC has 243 member companies doing business in Texas.



Sandboxes

A “regulatory sandbox” is broadly defined as a special regulatory environment that allows approved participants to test new products and technologies without meeting all current regulatory requirements. In general, NAMIC believes that successful sandbox proposals would need to meet several tests, as described below. Of course, any particular sandbox proposal would call for more specific review and comment through the legislative process, and these comments should not be viewed as comprehensive.

First, there should be a clear reason why a sandbox is necessary. In the case of certain modifications to anti-rebating laws, for example, there is no reason that innovation cannot be allowed in the entire market. Similarly, for those innovations tested in the sandbox, there should be a process and procedure to bring these innovations, if successful, to the broader market within some reasonable timeframe. In other words, sandboxes should be seen as a means to identify regulatory strictures which, once understood to be unnecessary on a limited scale, can be addressed in the market at large, rather than as a forever separate-and-apart regulatory track.

Second, any sandbox should be open to participation by existing market participants. Unfortunately, sandbox proposals are sometimes advanced primarily or solely as a means for so-called “disruptors” to enter a market while avoiding the regulation imposed on the rest of the market. In reality, the use of new technology is advanced by various players in the market, old and new, and NAMIC recommends that the focus be on the innovation itself rather than on who is pushing the innovation. NAMIC opposes regulatory sandbox proposals that give advantages to new market entrants simply because they are new. NAMIC would also urge extreme caution with any sandbox proposals that provide waivers of solvency requirements, or waivers of licensing requirements in the business of insurance on a long-term basis.

Finally, NAMIC would also stress the need for confidentiality and trade secret protection, both within any potential sandbox environment and for new innovations that are approved outside of a sandbox. This is a particularly important consideration where innovations are concerned in an intensely competitive environment.

Areas of focus

As noted above, there are some areas of state law in which innovation could be advanced through modest changes. For example, NAMIC supports modification of Texas anti-rebating statutes to clearly allow loss mitigation-related products and services to be provided to policyholders, with appropriate confidentiality protections for the companies who innovate in this area. These products and services broadly benefit consumers and the insurance market as a whole by avoiding costly losses. NAMIC also supports further modification of Texas’s statutes allowing electronic



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communications with policyholders, at least to allow insurers, for those policyholders who purchase a policy electronically, to conduct business electronically as the default policy option; on such policies, policy transactions would only occur on paper if the policyholder opts out of electronic transactions.

These are only examples. In both these areas, further changes will likely be necessary over time to reflect the increasing reliance on and demand for loss mitigation technology and electronic communication.

Thank you again for the opportunity to comment. Please feel free to contact me if I may provide additional information.

Sincerely,

Jon Schnautz
Regional Vice President
Southwest Region
National Association of Mutual Insurance Companies (NAMIC)