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## Testimony of American Property Casualty Insurance Association (APCIA)

House Economic Matters Committee

House Bill 767-- Workers' Compensation - Fees for Legal Services

March 3, 2020

### Letter of Opposition

The American Property Casualty Insurance Association (APCIA) represents more than 1200 insurers and reinsurers that provide critically important insurance protection throughout the U.S. and world. In combination, our members write 60% of the U.S. property casualty insurance market. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe. APCIA appreciates the opportunity to provide written comments in opposition to House Bill 767.

House Bill 767 would permit the Workers' Compensation Commission (WCC) to order the payment of legal fees of up to \$2,000 for legal services rendered on behalf of a covered employee even if there is not any compensation payable. While the bill is unclear, it is presumably intended to apply to situations in which additional medical treatment is required but previously awarded compensation benefits have already been exhausted. The fees would be payable by the employee, employer, insurer, self-insured employer, or Uninsured Employers' Fund – though, as indicated in the Fiscal and Policy Note, the Workers' Compensation Commission has acknowledged that it would most likely require entities other than the employee to pay the fee.

This would represent a significant and unjustified departure from the current system, in which attorneys charge employees directly for their services. The Commission's rules governing attorney's fees, while generally prohibiting attorney fees in cases (as with medical care and treatment) where the employee does not receive any monetary award, already give the Commission discretion to authorize the payment of such fees in those cases where exceptional circumstances exist. As a result, the means for correcting any potential injustice already exist.

For these reasons, the APCIA urges the Committee to provide an unfavorable report on House Bill 767.