

SENATE JUDICIAL PROCEEDINGS

SB 683: Courts—Wrongful Acts by Deceased Individuals—Action *In Rem*

UNFAVORABLE

March 1, 2023

Chairman Smith and Members of the Committee,

I am writing on behalf of the National Association of Mutual Insurance Companies¹ (NAMIC) in opposition to Senate Bill 683 and request an unfavorable report.

NAMIC consists of more than 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

Senate Bill 683 provides that a legal action *in rem* may be brought against an insurance policy that was held by a deceased person who was responsible for damages arising from a motor vehicle accident. The U.S. Supreme Court opined in *Rush v. Savchuk*, 444 U.S. 320, 100 S. Ct. 571 (1980) and determined each case must be analyzed on its particular facts and merit. The Supreme Court held a state may not constitutionally exercise *in rem* jurisdiction over a defendant who has no forum contacts by attaching the contractual obligation of an insurer licensed to do business in the state to defend and indemnify in connection with a suit.

Additionally, Senate Bill 683 allows a direct action against insurance companies. Insurance policies are contracts between the insurer and policyholder. These contracts are subject to the standard provisions of contract law and have a history of judicial analysis. Insurance policies serve as a package of rights and responsibilities that are interpreted according to the contract—legal action cannot be brought against an insurance policy in the same sense that it can be brought real property.

For these reasons, NAMIC opposes Senate Bill 683 and respectfully requests an unfavorable report of the bill.

Sincerely,



Matt Overturf, NAMIC Regional Vice President
Ohio Valley/Mid-Atlantic Region

¹ NAMIC member companies write \$357 billion in annual premiums and represent 69 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance markets. Through its advocacy programs NAMIC promotes public policy solutions that benefit member companies and the policyholders they serve and fosters greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.