



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

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PCI Veto Request on S.D. Subrogation Bill Highlights Litigation Costs

PIERRE, S.D.—The Property Casualty Insurers Association of America (PCI) highlighted the likelihood for Senate Bill 169 to drive increased litigation costs and thus higher insurance premiums for consumers in a veto request submitted yesterday to South Dakota Governor Mike Rounds.

The bill, which passed the South Dakota legislature last week, would prohibit subrogation until the injured party is “made whole,” meaning that insurers could not recover any amount unless and until the insured individual receives full compensation for all damages arising from his or her claim against the person who caused the injury.

“The ‘make whole’ provision is an enormous loophole in this proposed legislation,” said Kelly Campbell, PCI vice president. “It means that any time a settlement does not provide the full amount claimed by the individual the insurer could not recover any amount paid. Not only is the bill likely to increase litigation costs, it also would likely result in at-fault parties having less responsibility for the damage they cause and increase insurance coverage costs for consumers.”

In its letter to Governor Rounds, PCI pointed out that subrogation is an important cost containment tool; without the right to subrogate and take action against those responsible for losses, insurance carriers would be forced to spread the costs among their own policyholders.

PCI also highlighted that in the 16 states that do not allow for subrogation of medical payments coverage, the loss costs are 60 percent higher than in states where subrogation is allowed.

“Litigation is a cost driver for all lines of insurance,” said Campbell “This bill would open an entire new arena of litigation to pursue to determine the definition of ‘made whole’ and could cost all South Dakotans in terms of higher premiums.”

PCI is composed of more than 1,000 member companies, representing the broadest cross-section of insurers of any national trade association. PCI members write over \$180 billion in annual premium, 37.4 percent of the nation’s property casualty insurance. Member companies write 44 percent of the U.S. automobile insurance market, 30.7 percent of the homeowners market, 35.1 percent of the commercial property and liability market, and 41.7 percent of the private workers compensation market.

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