2023 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1373

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1373
01/25/2023

Relating to property and casualty policies.

Chairman Louser called to order 10:16 AM

Members Present: Chairman Louser, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.
Member Absent: Vice Chairman Ostlie.

Discussion Topics:

- Escrow account
- Policy renewal
- Premium adjustment
- Political subdivisions Insurance
- Municipalities
- Lien holders

In favor:
Representative Jim Grueneich, District 28, Bill sponsor, #16813

Opposed:
Ryan Joyce, Association of North Dakota Insurers (no written testimony)

Neutral
Jon Godfread, Commissioner, ND Insurance Department (no written testimony)

Representative Koppelman moved Do Pass on amendment LC #23.0944.01001
Seconded by Representative Ruby

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	AB
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	AB
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	AB

Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 11-0-3

Representative Tveit moved a Do Not Pass, as amended.
Representative Thomas seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	AB
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	AB
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	AB
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 11-0-3

Representative Tveit will carry the bill.

Additional written testimony:
Christopher Oen, Nodak Insurance Company, #16586
John Ward, Association of North Dakota Insurers, #16612

Chairman Louser adjourned the hearing 10:46 AM

Diane Lillis, Committee Clerk

Prepared by the Legislative Council staff for
Representative Grueneich
January 23, 2023

JA 1-25-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1373

Page 1, line 2, replace "and casualty" with "insurance"

Page 1, line 2, after "policies" insert "for debris removal"

Page 1, line 6, remove "**and casualty**"

Page 1, line 6, replace "**Required contract term**" with "**Debris removal**"

Page 1, replace lines 7 through 12 with:

"1. An insurer covering a building or property, upon submission of a valid invoice to the insurer by a city or other political subdivision, shall directly reimburse the city or political subdivision for any cost incurred for debris removal, clean-up, foundation removal, or excavation due to be tendered to the insured on the insured property.

2. In the absence of insurance coverage for debris removal, clean-up, foundation removal, and excavation, the city or political subdivision may seek reimbursement directly from the property owner."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1373: Industry, Business and Labor Committee (Rep. Louser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1373 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "and casualty" with "insurance"

Page 1, line 2, after "policies" insert "for debris removal"

Page 1, line 6, remove "**and casualty**"

Page 1, line 6, replace "**Required contract term**" with "**Debris removal**"

Page 1, replace lines 7 through 12 with:

"1. An insurer covering a building or property, upon submission of a valid invoice to the insurer by a city or other political subdivision, shall directly reimburse the city or political subdivision for any cost incurred for debris removal, clean-up, foundation removal, or excavation due to be tendered to the insured on the insured property.

2. In the absence of insurance coverage for debris removal, clean-up, foundation removal, and excavation, the city or political subdivision may seek reimbursement directly from the property owner."

Renumber accordingly

TESTIMONY

HB 1373

Good morning, Chairman Louser, members of the House Industry Business, and Labor, member of Commissioner Godfread's office. My name is Chris Oen, Vice President of Claims for Nodak Insurance Company. I am also a board member of the Association of North Dakota Insurers. We represent those insurance companies that are domesticated and operate in North Dakota. Those primary members being Heartland Mutual of Minot, ND; Center Mutual Insurance of Rugby, ND; Farmers Union Insurance of Jamestown; and Nodak Insurance Company of Fargo. I present today in opposition of HB 1373.

Insurance contracts are robust and complicated. But at their core, they are a contract between an individual entity (like a homeowner or businessowner) and the insurance company that issues that policy. It gives both parties rights under that contract to administer covered claims that the policy provides coverage.

HB 1373 is looking to insert a government entity to that private contract. While I'm not an attorney or represent any type of in-depth knowledge of constitutional law, I do believe that HB 1373 would be unconstitutional in its overall reach to try include a city, township or any government agency into a privately agreed contract.

All insurance policies define who can legally make a claim for coverage. Use the typical example of a homeowner's policy. The homeowner, residents of the household, or even the mortgage company have defined parameters on when and how a claim for coverage can be made.

Certain types of losses are covered, some are not. I could easily see a scenario where there is a partially covered loss, but non-covered losses could deem the home uninhabitable. I'll give you an example from my work in claims experience.

Many years ago, in Walsh County ND a claim was submitted by a mortgage company for a home that was in foreclosure and vacated. Upon my inspection, there were a number of issues with the house. There had been a small kitchen fire, which was covered under the policy. However, the main issue that created the house being destroyed was failure to keep heat in the home, which caused extensive water issues from frozen pipes.

The fire loss was covered and that claim was paid. But the water loss was not covered under the policy. I presumed the home was eventually razed due to the water damage. But how would that work if HB 1373 was enacted? It would likely create a conflict between the insurance company and government entity attempting to make a claim, with litigation becoming likely. Neither side of this issue wants that to occur.

Furthermore, who determines if the home (in this scenario) is uninhabitable and determines the home needs to be razed or destroyed? It appears by the wording of this bill that determination would be by the government entity that wants the structure destroyed with no built in rights for the insurance

company to disagree. Extensive costs would be passed onto the insurance company, no doubt giving a significant increase in property insurance rates within North Dakota.

If HB 1373 was to become the law, this would create extreme confusion on under what rights a government entity of subdivision would have. Would insurance companies be required at a great expense to define those rights? And who? Would it be the county, township, city?

January 25, 2023

John Ward, Association of North Dakota Insurers

Testimony in Opposition to HB 1373

Good Morning Chairman Louser and Members of the Committee:

My Name is John Ward. I am here representing the Association of North Dakota Insurers or ANDI. ANDI is an association of North Dakota domestic insurance companies.

I am here today in Opposition to HB 1373 which is a well-intended bill that like many well-intended bills poses a significant number of unintended consequences for Industry. Furthermore, HB 1373 is also likely both unconstitutional and wholly upends property and casualty insurance as it is written today.

An insurance policy purchased by a consumer that covers a dwelling is underwritten in a way that values the risk that is covered by the policy. It is a contract between an insurance company and the policyholder. Some of these policies may provide coverage for demolition or debris removal.

HB 1373 appears to try and address a circumstance where a policyholder receives the proceeds of the policy for a covered loss but does not remediate the damaged property. While HB 1373 attempts to prevent that burden from being borne by the city seeking to remediate the damaged or substandard structure, it impermissibly injects itself as a third party into the private contract. This third party risk has not been underwritten by the insurance company.

In practice, the insurance company generally has made payment to the insured long before the work is ever completed by the contractor. If this bill were to pass, it may cause the insurer to pay twice for the same covered loss.

The contracts clause of the United States' Constitution prevents a State from enacting laws, which impairs contracts between private parties. This bill seems to run afoul of the Contracts Clause.

ANDI urges a DO NOT PASS on HB 1373.

Thank you for your time and attention,

John Ward

23.0944.01001
Title.

Prepared by the Legislative Council staff for
Representative Grueneich
January 23, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1373

Page 1, line 2, replace "and casualty" with "insurance"

Page 1, line 2, after "policies" insert "for debris removal"

Page 1, line 6, remove "**and casualty**"

Page 1, line 6, replace "**Required contract term**" with "**Debris removal**"

Page 1, replace lines 7 through 12 with:

"1. An insurer covering a building or property, upon submission of a valid invoice to the insurer by a city or other political subdivision, shall directly reimburse the city or political subdivision for any cost incurred for debris removal, clean-up, foundation removal, or excavation due to be tendered to the insured on the insured property.

2. In the absence of insurance coverage for debris removal, clean-up, foundation removal, and excavation, the city or political subdivision may seek reimbursement directly from the property owner."

Renumber accordingly