



**Written Testimony of Nationwide Mutual Insurance Company  
Submitted to the South Carolina Ad Hoc Insurance Rate Committee  
August 19, 2025**

To The Honorable Gary Brewer and Members of the Committee:

Nationwide Mutual Insurance Company appreciates the opportunity to submit this testimony to the Ad Hoc Insurance Rate Committee. We commend the Committee's efforts to examine the dynamics of South Carolina's insurance marketplace and the legal environment that impacts rate stability and consumer protection.

**Company Background**

Nationwide, a Fortune 100 company based in Columbus, Ohio, is one of the largest and strongest diversified financial services and insurance organizations in the United States. Nationwide is rated A+ by Standard & Poor's. An industry leader in driving customer-focused innovation, Nationwide provides a full range of insurance and financial services products including, auto, business, homeowners, farm and life insurance; public and private sector retirement plans, annuities and mutual funds; excess & surplus, specialty and surety; and pet, motorcycle and boat insurance. We serve millions of customers across the country through a network of agents, financial professionals, and digital platforms.

**Nationwide's Presence in South Carolina**

Nationwide began doing business in South Carolina in 1977 and has maintained a strong presence ever since. We are authorized to write a broad range of insurance products in the state, including:

- Personal auto and homeowners' insurance
- Commercial property and liability insurance
- Farm and Agribusiness insurance
- Life insurance and annuities

Our commitment to South Carolina is reflected in our long-standing relationships with policyholders, agents, and community partners throughout the state.

**Challenges in the Current Insurance Marketplace**

The insurance industry in South Carolina, as in many states, faces significant challenges in maintaining affordability and availability of coverage. These challenges are compounded by a legal environment that can increase costs and uncertainty for insurers and policyholders alike. Nationwide supports a balanced approach to reform that promotes fairness, reduces abuse, and strengthens consumer protection.



## 2025 Legislative Session

Nationwide would like to extend its warmest thanks to the General Assembly for their efforts during the 2025 legislative session. Taking on two of the more complex tort reform issues, such as joint and several and liquor liability, was no easy task. House bill 3430, signed by Governor McMasters as Act 42 certainly represents much needed progress towards a more even playing field but additional reforms are necessary.

## Industry Objectives Supported by Nationwide

To that end, Nationwide testimony supports the following legislative and regulatory objectives:

- **Phantom Damages Reform**

We advocate for legislation that limits damage awards to the amounts actually paid or owed, rather than inflated billed amounts that distort the actual cost of claims.

In South Carolina, the legal framework permits plaintiffs in personal injury cases to recover damages based on the full amount billed for medical services even if insurers or government programs paid significantly less. The practice, known as “phantom damages,” inflates settlement demands and jury awards, which in turn forces insurance companies to raise premiums for all consumers to offset the increased financial exposure. The result is a hidden “tort tax”<sup>1</sup> that burdens families, small businesses, and taxpayers alike. Applying the state’s collateral source rule distorts the actual cost of medical care and exacerbates the economic burden on the insurance system. Moreover, the use of medical finance companies and letters of protection where plaintiffs pay inflated medical bills from lawsuit proceeds further amplifies phantom damages. These practices incentivize litigation, inflate claims, and drive-up insurance costs for everyone.

The legislative trend over the past few years indicates more states are moving away from allowing plaintiffs to recover the inflated amount of the billed medical expenses and limiting recovery to what is actually paid. Florida, Georgia, and Louisiana serve as recent examples where rules have been adopted that limit recovery to actual costs. If South Carolina fails to act on these inflated claims, it could stand out as an outlier, attracting lawsuits from out-of-state and making the legal system less fair for everyone.

- **Punitive Damages Reform**

We support clearer standards for the imposition of punitive damages to ensure they are reserved for truly egregious conduct and not used to inflate settlements. South Carolina law generally allows auto insurance policies to cover punitive damages. Punitive damages are designed to punish severe misconduct and deter future violations. This coverage can therefore be seen to create a moral hazard, encouraging reckless behavior like drunk driving or fraud, since individuals know insurers will bear the cost. Consequently, it also drives up insurance premiums and litigation rates, as plaintiffs are more likely to pursue punitive damages when insurers are required to pay.<sup>2</sup>



Furthermore, some states prohibit coverage for punitive damages, while others have restricted or limited such coverage on public policy grounds, highlighting South Carolina's outlier status.

South Carolina's standard for awarding punitive damages resulting from wanton, willful, and reckless conduct has evolved over time to be a relatively low threshold. In practice, plaintiffs' attorneys often seek them even in claims involving relatively minor traffic violations. Moreover, the South Carolina Supreme Court ruled in *Geico v. Poole*<sup>3</sup> a plaintiff, may be able to receive punitive damages from both the bodily injury and property damage liability limits, at least in uninsured or underinsured motorist claims. It is no wonder that in the current environment a majority of lawsuits filed will include a claim for punitive damages adding uncertainty to the evaluation process.

There are steps the legislature could take to eliminate this cost driver. Firstly, the legislature could pass a law that finds indemnification of these damages are void for public policy reasons. Also, they could heighten the standard for when punitive damages are awarded, such as only for intentional acts. Another option could be to clarify that punitive damages should be apportioned by coverage and limit recovery appropriately when there is only a small amount of property damage.

- **Tyger River Doctrine – Safe Harbor Provision**

We urge the creation of a statutory safe harbor to protect insurers from bad faith claims when reasonable settlement efforts are made in good faith.

South Carolina's current approach to bad faith claims under the Tyger River doctrine has created several unnecessary challenges for insurers. First, the lack of clear standards, where insurers are judged solely on whether they acted "reasonably." This vague and arbitrary standard leaves too much room for interpretation and often leads to costly litigation. The nature of the Tyger River bad faith claims often require separate lawsuits with separate counsels, which are expensive and time-consuming. These cases involve complex legal arguments, expert testimony, and long trials. Even when insurers win, the cost of defending these suits is high, and those costs get passed on to policyholders through higher premiums.

Importantly, and this is the crux of the problem, plaintiff attorneys frequently issue settlement demands with overly complex, contradictory, and time-sensitive requirements that seem more designed to trigger bad faith exposure than to reach a fair resolution. These demands are often used as leverage, forcing insurers to choose between settling prematurely without full documentation or understanding on a claim with incomplete information and questions or risking unnecessary exposure to policyholders, an excess judgement, and a bad faith lawsuit.

We ask the legislature to revisit this issue during the 2026 legislative session and eliminate the Doctrine altogether or pass reforms that provide specific times and procedural rules for settlement demands. These reforms would give insurers a safe harbor to investigate claims and fair opportunity to respond appropriately, helping to



reduce arbitrary bad faith allegations and restore balance to the claims process. By setting clearer expectations for both parties, the legislation would promote genuine settlement efforts and discourage litigation tactics that exploit vague standards.

- **Insurance Fraud Prevention**

We support strengthening enforcement tools and penalties for insurance fraud claims which will help reduce insurance related costs and protect honest consumers.

Insurance fraud costs U.S. consumers an estimated \$308.6 billion annually<sup>4</sup>, affecting all lines of insurance including property and casualty, auto, and workers' compensation. These losses are ultimately passed on to policyholders through higher premiums. For example, auto insurers alone lose at least \$29 billion per year due to premium leakage and fraudulent claims<sup>4</sup>. Reducing fraud through legislation can help lower these costs and stabilize premiums for honest consumers.

The insurance industry, along with leading organizations like the National Insurance Crime Bureau (NICB) and the Coalition Against Insurance Fraud advocate for stronger laws to combat insurance fraud through better investigations, enforcement, and penalties. They emphasize the importance of using advanced technologies to detect fraud early and accurately. Also, they support improved coordination between insurers. Departments of Insurance and law enforcement to hold fraudsters accountable.

South Carolina was at the forefront of anti-fraud efforts when it passed a law in 2013 to address roofing fraud<sup>5</sup>, which often involves contractors inflating repair costs or billing for work not performed. While this law was a step in the right direction, it could be improved by requiring contractor licensing, mandating itemized written contracts, and increasing penalties for repeat offenders. Expanding the law to cover other high-risk services like tree removal and disaster remediation would further protect consumers and insurers from opportunistic fraud.

Insurance operates on the principle of risk pooling and predictability. Fraud introduces volatility, making it harder for insurers to accurately price policies. When fraud is rampant, insurers must raise premiums across the board to cover unexpected losses. By enacting and enforcing strong anti-fraud laws, states like South Carolina can help restore balance to the system, reduce unnecessary payouts, and ensure fairer, more affordable coverage for all policyholders.

- **Auto Glass Claims Reform**

We support measures to curb abusive practices in auto glass claims, including transparency in billing and consumer consent requirements. Auto glass repair fraud and deceptive practices in the auto glass repair industry are on the rise. Other states (Florida, Kentucky, and Maryland) have recently addressed this growing concern to protect consumers and address an issue driving up auto insurance costs. The National Council of Insurance Legislators (NCOIL) also recently adopted model language based on those bills to put guardrails around deceptive repair practices. Further, we support





giving consumers the choice to select a glass deductible which empowers them to manage and potentially lower their insurance costs.

- **Property Mitigation and Resilience**

We endorse enhancements to state sponsored mitigation efforts, such as South Carolina's Safe Home Program. Further, we advocate for the mandatory adoption and uniform enforcement of statewide building codes as well as enforceable standards for permits, inspections and building code inspector licensing and training. Strong, enforceable building codes are the simplest and most effective way to protect property, reduce damage, save lives, and lessen the need for post-catastrophe federal aid.

It is well documented that the frequency and severity of extreme weather continues to increase, creating high-cost disaster weather related events. The total cost for billion-dollar events between 2020 and 2024 has been \$746.7 billion dollars<sup>6</sup> with an average annual expenditure of nearly \$150 billion dollars.<sup>7</sup> Studies show that the costs associated with modern building codes have a significant return on investment: FEMA's 2020 Building Codes Save study found that enhanced building codes will reduce losses by \$132 billion between 2000 and 2040<sup>8</sup>.

South Carolina requires insurers to provide mitigation discounts to their customers for installation of storm shutters, roof tie downs, and impact resistant glass for example. We propose the legislature update the law to include new residential buildings meet the Institute for Business and Home Safety (IBHS) fortified home standards<sup>9</sup> which provide for more comprehensive mitigation and could lead to stronger and more resilient homes.

If insurance carriers, distribution professionals and government officials work together, we can help customers and communities take proactive steps to mitigate risk and be more resilient when severe weather strikes. Resilient homes, businesses, and communities are built to withstand severe weather and can reduce or even prevent damage, disruption, and dislocation all too often associated with natural disasters. Embracing resilient construction has become critically important because the frequency and severity of weather events have increased, and based on trends, their impact will continue to grow.

## **Conclusion**

Nationwide remains committed to serving the people of South Carolina with integrity and care. We believe that thoughtful reforms can help stabilize the insurance market, improve affordability, and ensure that consumers are protected. We thank The Honorable Gary Brewer and the Committee for their leadership and for the opportunity to contribute to this important dialogue.

Respectfully submitted,  
Nationwide Mutual Insurance Company

## References

1. **American Tort Reform Foundation.** *Phantom Damages and the Trial Bar's Efforts to Game the System.* Judicial Hellholes, 2020–2021. Available at: <https://judicialhellholes.org/phantom-damages-and-the-trial-bars-efforts-to-game-the-system>
2. **Bryan M. Weiss,** "Insurability of Punitive Damage Awards," International Association of Defense Counsel (IADC), available at [https://www.iadclaw.org/assets/1/7/7.3- Weiss- Insurability of Punitive Damages.pdf](https://www.iadclaw.org/assets/1/7/7.3-Weiss-Insurability%20of%20Punitive%20Damages.pdf)
3. **Government Employees Insurance Co. v. Poole,** 424 S.C. 1, 817 S.E.2d 283 (2018). *Geico v. Poole – Opinion No. 27821 (PDF)*
4. **Insurance Information Institute,** Facts + Statistics: Fraud, [Facts + Statistics: Fraud | III](#)
5. **South Carolina House Bill 3409 (2013),** [2013-2014 Bill 3409 Text of Previous Version \(May. 23, 2013\) - South Carolina Legislature Online](#)
6. **National Centers for Environmental Information,** [Billion-Dollar Weather and Climate Disasters | National Centers for Environmental Information \(NCEI\)](#)
7. **U.S. Global Change Research Program.** *The Fifth National Climate Assessment.* Available at: <https://nca2023.globalchange.gov>
8. **"Protecting Communities and Saving Money: The Case for Adopting Building Codes,"** FEMA (November 2020), [https://www.fema.gov/sites/default/files/documents/fema\\_rsl\\_building-codes-save-study\\_042025.pdf](https://www.fema.gov/sites/default/files/documents/fema_rsl_building-codes-save-study_042025.pdf)
9. **Insurance Institute for Business and Home Safety.** [Solutions - FORTIFIED - A Program of IBHS](#)