Demotech, Inc.

Good Morning, Chairman Hottinger, Vice Chair Hackett, Ranking Member Brown, and Members of the Senate Insurance and Financial Institutions Committee.

My name is Mike Stinziano. I am the Senior Vice President, Government and Corporate Relations at Demotech. For 22 years, from 1973 to 1995, I had the honor of representing Columbus in the Ohio House and for 16 years, from 1978 to 1995, chairing the House Insurance Committee. In 1992 I served as President of the National Council of Insurance Legislators.

With me are Joe Petrelli, President and founder of Demotech, and Sharon Romano Petrelli, Vice President and cofounder. We are here in support of SB 273 to share our thoughts on the importance of state regulation of insurance and the requirement of competition among competent insurer rating agencies.

Prior to doing so, we want to personally thank Senator Hackett for his leadership in sponsoring the Model Act Requiring Competition among Rating Agencies to Improve State Regulation of Insurance that NCOIL unanimously adopted during NCOIL's Annual Meeting in Phoenix last November.

As you know from Senator Hackett's Sponsor Testimony, the intent of SB 273 is to implement NCOIL's Model Act in Ohio.

Currently, the interactive, responsive state regulatory framework in place countrywide and in Ohio is consistent with the intent of United States Senator Joseph C. O'Mahoney, a principal architect of the McCarran- Ferguson Act. His vision of insurance regulation was "public regulation by public authority." Senator O'Mahoney specifically rejected private sector regulation as "harmful to the public interest."

Contrast his vision of "public regulation by public authority" with the testimony that NCOIL received during the analysis that lead up to the Model Act. Britt Newhouse, (then) Chairman of Guy Carpenter and Company, LLC, a member of the publicly traded Marsh family of companies, a forty year veteran of the insurance industry, noted: "the rating opinion published by a single, privately held rating service carries significant, disproportionate weight. ….. urging each state to foster competition in insurer ratings to benefit consumers, duly licensed insurance companies, producers, and other third-party stakeholders by promulgating and

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embracing insurer rating requirements in laws and regulations that incorporate the enumeration of multiple, competent insurer ratings organizations is an important step forward." Hundreds of other industry professionals presented a similar message, prior to NCOIL's resolution as well as the Model Act.

Consumers and third party users of insurance may not be familiar with the regulatory efforts of NCOIL, state departments of insurance or the National Association of Insurance Commissioners. As such, consumers and competition in the marketplace to benefit consumers have been disadvantaged by a single, exclusive insurer rating agency requirement which impedes the competition and innovation that would directly benefit consumers.

Founded in 1985, in 1989, Demotech was the first to develop a process to review and rate independent regional and specialty insurers, As such, Demotech has observed this phenomenon firsthand.

Last November, Demotech presented survey results to NCOIL, a copy of which accompanies my testimony, from more than 100 insurance professionals who provided testimonials that confirm that across the country, a single, exclusive insurer rating requirement adversely impacts consumers in addition to disadvantaging the duly licensed carriers that the states regulate. Survey responses came from insurance carriers operating in every state and the District of Columbia – from insurers large and small, and of every form of insurer – privately held, publicly traded, mutual, risk retention group, mutual protective association, reciprocal, and captive insurers, as well as independent agents and brokers who market on their behalf.

In Ohio, consumers and duly licensed insurance carriers, will benefit from enacting SB 273, Ohio's response to the threat to public regulation of insurance. The breadth and scope of unintended consequences caused by specifically naming a single insurer rating option in legislation, regulations, and bulletins can no longer be dismissed. Some interpret such legislative and administrative rule-making activity as a transfer of regulatory authority from the states to the single, private-held rating agency named in the statute, regulation, or bulletin. Two excerpts from survey respondents summarize the situation.

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One professional said “Having worked in the insurance industry for over 40 years, I’ve seen the deteriment (sic) of public entities only recognizing only one rating agency. This has lead (sic) to that rating agency being very difficult and overly demanding to work with. It would be a huge consumer benefit to eliminate the monopoly that has been in place for many years…”

Another respondent, the President and CEO of the Missouri Bar Plan Mutual Insurance Company, said “This effort by legislators and departments of insurance to identify and embrace competent rating alternatives will expand competition to the benefit of consumers, and end a practice that permits a single rating agency to have a monopolistic and damaging impact on the marketplace and the companies who choose another ratings service.”

Across the country, the clout of a single, privately-held insurer rating organization – ironically viewed by some as a regulator – harms consumers, duly licensed insurers and other parties by minimizing the critical, statutory role of state regulation, impeding competition that benefits consumers while adversely impacting duly licensed insurers in good standing.

Examples of harm to consumers, commercial purchasers of insurance and duly licensed carriers occur on a daily basis, state by state. Accordingly, Demotech and I appreciate this opportunity to discuss some of the obstacles facing Ohio consumers, and duly licensed insurers and producers in Ohio when insurer eligibility requirements hinge on the opinion of an exclusive rating requirement that has been enumerated in a statute, regulation, or bulletin.

A consumer’s ability to purchase insurance, whether for their automobile, home, business or umbrella insurance protection, or to secure premium financing often hinges on the rating of the insurer. Employment opportunities and growth of the insurer, its producers and their respective employees do as well. Contractors and businesses that rely on state, county, municipal or private sector construction projects may find that the requirement to qualify an insurance policy require a certain rating issued by a single, exclusive rating organization enumerated in a statute, regulation, or bulletin.

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Hundreds of thousands of insurance producers in every state, the District of Columbia and the Commonwealth of Puerto Rico who are required to purchase professional liability insurance coverage find that the major carriers of such coverage have in place restrictions in the event of the insolvency of an insurer that is NOT rated by the specific, privately held rating agency. This restriction adversely impacts consumer choice in the selection of duly licensed carriers, limits the markets available to producers and harms duly licensed carriers that have elected not to be reviewed by the exclusively designated rating agency.

In the healthcare sector, physicians, surgeons and other medical professionals often find that their ability to maintain privileges at a hospital or medical facility is dependent upon whether or not their professional liability insurer is rated by this same, privately-held insurer rating organization.

In the real estate marketplace, competition and consumer choice are adversely impacted when lenders have in place an exclusive insurer rating requirement that restricts a consumer's choice of title underwriters. Consumers, often at the closing table, are advised that their title insurance policy is unacceptable, despite being issued by a duly licensed title underwriter in good standing. These rejections occur solely because the insurer was not rated by a specific rating organization.

Whether consumer choice of her or his primary insurance carrier, eligibility to purchase umbrella insurance, eligibility for premium financing, title insurance related to the purchase of real property, a successful vendor's coverage when performing work for a public entity, an insurance agent's ability to offer consumers the widest selection of markets and premium options, or a medical professional's privileges at a hospital; the perception of the primacy and value of state regulation is diminished when statutes, regulations and bulletins enumerate but one competent insurer rating agencies.

In conclusion, the testimonials of respondents were clear - an unintended consequence of this practice has been the erosion of state regulatory authority and the misperception that one privately-held insurance rating agency supersedes the state regulatory process that oversees duly licensed insurers. To remedy this situation, NCOIL adopted the Model Act requiring competition among competent insurer rating agencies to benefit consumers, third parties relying on the protection

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provided by insurance as well as the duly licensed insurers that states regulate. Most importantly the Model Act recognizes that the utilization of multiple, competent insurer rating alternatives reinforces "public regulation by public authority." The definitive voice will again be 'state regulation.'

Chairman Hottinger, on behalf of Ohio consumers, each competent insurer rating agency, the respondents to the survey and those who share their opinion, insurers countrywide and the millions of consumers that they serve, we respectfully express our support for SB 273 so as to implement NCOIL's Model Act in Ohio.

Thank you, Chairman Hottinger, Vice Chairman Hackett, and Ranking Member Brown. We would be pleased to answer questions as the Committee's time permits.

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