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**NATIONAL CONFERENCE OF STATE LEGISLATURES INSURANCE  
TASK FORCE**

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# EMERGING “LAST MILE” TRANSPORTATION SOLUTIONS AND ASSOCIATED INSURANCE QUESTIONS— NAMIC LEADING THE WAY



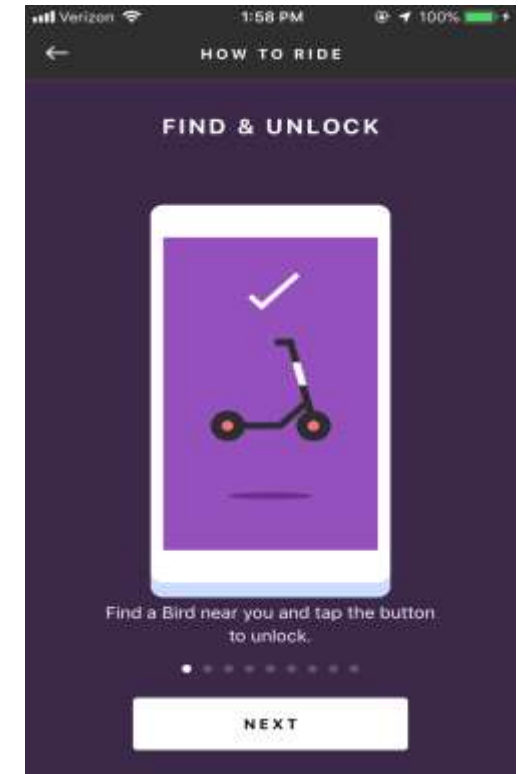


## THE FUTURE IS NOW – DOCKLESS SCOOTERS AND BIKES ARE CHANGING TRANSPORTATION AND CREATING COTTAGE INDUSTRIES

2018 brought about the advent of a litany of dockless “last mile” transportation solutions like electric scooters and bikes. While the technology behind bikes and scooters isn’t new, companies like Bird and Lime have adopted these technologies to today’s consumer, creating a convenient and affordable means of short-distance or “last mile” transportation.

### Accessing an electronic scooter:

1. Users download an application and register for the services on their smartphones using a credit card.
2. Users use the application to locate and unlock a scooter or bike.
3. Users start scootering/biking.
4. Scooters and bikes are left where users stop using them and scooters are recharged by individuals (sometimes in the individual’s own home) compensated by the scooter company.





## CONVENIENCE AT A COST: POTENTIAL LIABILITY ISSUES IN THE “LAST MILE” SPACE

Electric scooter companies have created a convenient, cheap and useful service for the general public.

There is little doubt, however that this service, the manner in which it is utilized, and corresponding municipal and state regulations create a **magnitude of potential liability issues for insurers.**





## CONVENIENCE AT A COST: POTENTIAL LIABILITY ISSUES IN THE “LAST MILE” SPACE

Insurers, Reinsurers, Regulators, Legislators and consumers alike must consider the following:

- How are scooter regulations enforced (i.e. helmet requirements, speed limits, usage and parking restrictions)?
- What portion of liability should be assigned to the operator of the scooter vs. the owner of the scooter?
- Should scooter and bike companies be required to carry insurance to cover user’s actions? If so, at what level?
- What about the liability of store owners when a scooter is left (without permission) on their property connecting to a public space?
- Are scooter operators invitees on private roads that connect to public roads?
- Do the scooter companies pick up the tab for liability stemming from in-home charging of their or are in-home chargers encouraged to file a claims with their homeowners or renters insurance carrier?



# AVOIDING AN AD HOC APPROACH TO REGULATION

- To date, the debate on if and how to permit scooter companies is being fought primarily at the city and county level, with only a few states adopting legislation specifically regulating dockless scooters.
- Given the potential liability questions involved and in light of the rapidly changing regulatory and legislative landscape, and the potential impact that “bad” laws and regulations would have on insurers, NAMIC has engaged on the “last mile” issue.
- In early 2019, NAMIC engaged with a number of dockless transportation companies to ensure that where legislation and regulations are pursued, consumers and NAMIC member companies alike are protected.
- In late 2019 NAMIC prepared and submitted model legislation to NCOIL as a starting point for the electronic scooter regulation discussion.



## NAMIC'S PROPOSED SCOOTER FRAMEWORK

The framework:

- Provides definitions for “electric scooters”, “users”, “pre-charging activity” and “charging activity”.
- Provides that the electric scooter company ensure that liability coverage is in place at a state by state level.
- Provides that insurance must be in place during “pre-charging” and “charging” activity.
- Includes a proviso that the framework does not create coverage where none exists.
- Provides rulemaking authority to state insurance commissioners.



## NAMIC'S PROPOSED SCOOTER FRAMEWORK

The framework does NOT:

- Wade into the employee v. independent contractor definition.
- Restrict municipalities abilities to implement safety rules and regulations.
- Restrict the electronic scooter companies' ability to imbed coverage in their fee structure or create other mechanisms by which the coverage requirements can be satisfied.
- Prescribe a standard amount for insurance coverages (risks vary and states should have autonomy to decide the appropriate coverage amounts).





## THE PATH FORWARD: BUILDING COALITIONS TO FORM BETTER POLICY

Heading into the 2020 legislative session and beyond, as state legislatures debate the promise and challenges created by these last-mile technologies, NAMIC hopes its proposed framework will provide a launching point for the discussion on liability questions surrounding the use of dockless electric scooters. We will continue to work closely with the electronic scooter companies and other stakeholders to ensure that consumers and insurers alike are protected from potential liability concerns.