

Approved February 26, 1990
Date

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Dale Sprague at
Chairperson

3:30 ~~xx~~ a.m./p.m. on February 20, 89 in room 531-n of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Research Department
Patti Kruggel, Committee Secretary

Conferees appearing before the committee:

see attached list

The meeting was called to order at 3:40 p.m. and hearings began on HB 2874.

HB 2874 -- an act authorizing the state fair board to purchase certain insurance; amending K.S.A. 1989 Supp. 74-4702 and repealing the existing section.

Representative George Dean testified in support of HB 2874 stating that it would allow the state fair board to purchase burglary and robbery insurance and would also allow them to purchase vehicle insurance for the days of the state fair.

Bob Gottschalk, Kansas State Fair Board provided testimony (Attachment 1) in support of HB 2874, explaining that this legislation was recommended by the Committee on Surety Bonds and Insurance and the Attorney General's Office, to allow the agency to purchase such coverage.

There were no others wishing to testify, and the hearing on HB 2874 was closed.

Hearings began on HB 2875.

HB 2875 -- an act concerning the state fair board; dedicating a specific self-insurance reserve for certain financed capital improvements; authorizing certain transfers from the self-insurance reserve fund; amending K.S.A. 12-3722 and 12-3723 and repealing the existing sections.

Rep. George Dean testified in support of HB 2875 and explained that the bill concern insurance coverage for the grandstand project allowing the state fair board to cover these projects under the state's self-insurance.

Bob Gottschalk, Kansas State Fair Board provided testimony (Attachment 1) in support on HB 2875 which would allow adequate insurance coverage for the grandstand remodeling project and future projects as covered in the statutes financed through Kansas Development Finance Authority. Mr.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance

room 531-N, Statehouse, at 3:30 ~~xxx~~m./p.m. on February 20, 89

Gottschalk also provided a memorandum (Attachment 2) fro the Kansas Development Finance Authority in support of HB 2874 regarding self-insurance for the state fair board capital improvements.

There were no others wishing to testify, and hearings on HB 2875 were closed.

Hearings began on SB 515.

SB 515 -- an act relating to limitations of the purchase of property insurance by state agencies; amending K.S.A. 1989 Supp. 74-4702 and repealing the existing section.

Dick Brock, Insurance Department testified in support on SB 515 explaining the this bill was requested by the Insurance Commissioner and would amend K.S.A. 74-4792 to allow a state agency, while prohibited from purchasing insurance on property unless authorized to do so, to carry insurance on property.

There were no others wishing to testify, and hearings on SB 515 were closed.

Hearings began on HB 2944.

HB 2944 -- an act concerning insurance; relating to cancellation or termination of certain agency contracts.

Carl Wyatt, Farmers Group Insurance provided testimony (Attachment 3) in support of HB 2944 discussing how the company determines loss ratio reasons the company may demand termination of an agents contract. Mr. Wyatt also provided an affidavit from Kevin Cox (Attachment 4) relating to agents from companies being threatened and harassed with termination should they persist in supporting this type of legislation.

Next appearing in support of HB 2944 was Gail Hull, Independent Insurance Agents. Mr. Hull provided testimony (Attachment 5) discussing his decision to resign as a Farmers Agent as of 2/1/90. Mr. Hull also provided a Legal Opinion (Attachment 6) from the agents association attorney, regarding Farmers' loss ratio termination practices.

Gary Purdon, Farmers Insurance Group provided testimony (Attachment 7) in support of HB 2944 expressing that agents should not be terminated simply due to loss ratio and explaining his association while employed at a Farmers Agent.

Bob Newton, Farmers Insurance Group appeared in support of HB 2944 and provided testimony (Attachment 8) stating this bills importance to Kansas policyholders doing business with an exclusive agent. Mr. Newton noted that an agent does not have total control on things of his ability to selecting those of good risk and should not be terminated on loss ratio alone.

Don McKillip, Farmers Insurance Group provided testimony in support of HB 2944 noting that an agent should not be penalized because of circumstances beyond their control (Attachment 9).

Appearing in support of HB 2944 was Harry Wilson, Farmers Insurance Group. Mr. Wilson provided testimony (Attachment 10) noting his personal experience as a Limited Underwriting Authority.

There were no others wishing to testify as proponents of HB 2944 and hearings on opposition of the bill began.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance

room 531-N, Statehouse, at 3:30 ~~xx~~m./p.m. on February 20, 89

Lee Wright, Farmers Insurance Group provided testimony in opposition to HB 2944 explaining that the bill could significantly reduce or eliminate the incentive for proper field underwriting by the agency force and restrict a private company's ability to efficiently address an agents adverse risk selection (Attachment 11).

David Tackett, District Manager Farmers Insurance Group, appeared in opposition of HB 2944 and provided testimony (Attachment 12) which discussed the Profitable Agency Programs in place to recognize Field Underwriting and to provide continuing assistance to agents.

Next appearing in opposition to HB 2944 was Don Ernst, Farmers Insurance Group. Mr. Ernst provided testimony (Attachment 13) commenting on the history of not being able to maintain a profitable agency and the ability of and insurance company to control their rate structure.

Dave Hanson, Kansas Association of Property and Casualty Insurance provided testimony (Attachment 14) in opposition to HB 2944. Mr. Hanson stated that the bill would have the effect of relieving that agent of all responsibility, other than transmitting completed applications without omitting or altering information provided by the applicants. He noted that the bill would interfere with existing contractual arrangements and would restrict future contractual rights and obligations of insurance companies and agents. He stated that it may in fact discourage competitiveness and ultimately insurance availability in Kansas by unilaterally restricting an insurance company's right to choose its agents.

Mr. Hanson also provided testimony in opposition to HB 2944 from Eric Loewe, National Association of Independent Insurers (Attachment 15) and Marla Bark Dembitz, Allstate Insurance Company (Attachment 16).

Written testimony in opposition to HB 2944 (Attachment 17) was distributed to the Committee from Rick Wilborn, Alliance Insurance and (Attachment 18) from Bill Sneed, State Farm Insurance.

Charles "Red" Baxter, Farm Bureau Insurance briefly appeared in opposition to HB 2944 for the same reasons previously discussed.

There were no others wishing to testify and hearings on HB 2944 were concluded.

The meeting was adjourned at 5:00 p.m.

Insurance Committee
Tuesday, February 20, 1990, 3:30
State Capitol, Room 531N

RE: HB 2874
AUTHORITY FOR AGENCY TO PURCHASE SAFE BURGLARY, MESSENGER
ROBBERY INSURANCE, AND LIABILITY INSURANCE FOR RENTED OR
BORROWED VEHICLES DURING THE STATE FAIR

Background:

The Committee on Surety Bonds and Insurance and the Attorney General's office recommended that legislation be secured to specifically allow this agency to purchase such coverage.

Request:

HB 2874 would authorize the State Fair Board to purchase this necessary insurance.

Financial Impact:

The financial affect on the agency's budget would be approximately a \$1,500 increase from past year expenditures for insurance. The increase is due to the increased coverage allowed by HB 2874. In the recent past, the agency has spent approximately \$1,000 for insurance coverage.

RE: HB 2875
AMENDS K.S.A. 12-3722 AND 12-3723
ALLOWS GRANDSTAND STRUCTURE TO BE COVERED FROM THE STATE
SELF-INSURANCE FUND

Background:

This legislation will allow adequate insurance coverage for the grandstand remodeling project and future projects as covered in K.S.A. 2-223 which are financed through Kansas Development Finance Authority. Insurance coverage is bonding requirement.

Request:

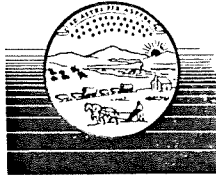
Passage of HB 2875.

Financial Impact:

If HB 2875 is not enacted and the State Fair is forced to purchase insurance coverage to meet the bonding requirements, the estimated cost would exceed \$10,000 per year. This money would have to come from the State Fair Capital Improvement and would severely limit capital improvement projects that could be accomplished.

BOARD OF DIRECTORS
H. EDWARD FLENTJE, CHAIRMAN
HARLAND E. PRIDDLE
CHRISTOPHER MCKENZIE
DENNIS MCKINNEY
HARRY WIGNER

ALLEN BELL, PRESIDENT



KDFA
KANSAS
DEVELOPMENT FINANCE
AUTHORITY

Suite 10C
Capitol Tower
400 S.W. 8th
Topeka, KS 66603

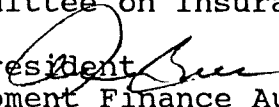
(913) 296-6747
KANS-A-N 561-6747
FAX (913) 296-6810

MARTY BLOOMQUIST, ASSISTANT

February 19, 1990

M E M O R A N D U M

TO: The House Committee on Insurance

FROM: Allen Bell, President 
Kansas Development Finance Authority

SUBJECT: Testimony on House Bill 2875 Regarding Self-Insurance
for the State Fair Board Capital Improvements

The Kansas Development Finance Authority supports the passage of House Bill 2875, which will allow the State Fair Board to avoid paying unreasonably high insurance premiums for casualty loss coverage of a facility whose renovation was financed by the issuance of revenue bonds.

The State Fair Grandstand was renovated in 1989 by means of a \$840,000 bond issue that was authorized by 1988 SB 769. Bond issues of this type typically require that the financed facility be covered by a policy of property insurance, to protect the security interest that the bondholders have in the facility and its ability to produce revenues.

In the bond documents, the Fair Board covenants to keep the facility insured in an amount equal to not less than the principal amount of bonds currently outstanding, less any cash reserves pledged to the bonds, or the appraised value of the facility, whichever is less. That would have meant purchasing an insurance policy that would cover losses up to \$756,000.

The state Committee on Surety Bonds and Insurance, however, determined that as a practical matter, the Fair Board could not partially insure the grandstand, but rather had to insure it up to its full appraised value, which is approximately \$6,000,000. When this insurance policy was bid, the low bid premium was over \$10,000 per year. Compared to other, much larger bond financings we have done so far, this insurance cost is astronomical.

The bond documents also provide for the KDFFA Board to allow the State Fair Board to self-insure the facility, as an alternative to purchasing insurance. However, both the Board and bond counsel agree that this provision does not permit the Fair

Attachment 2

Board to "go naked" with respect to insuring the facility. Rather, it allows for the funding, from whatever source, of a self-insurance fund dedicated to paying the costs of repairing or restoring the facility in the event of a casualty loss.

* The existence of the state self-insurance reserve fund was revealed as a result of legal research into the Fair Board's insurance problem. The fund currently has a balance of nearly \$1.9 million, \$1.5 of which is dedicated to facilities financed with KDHE sewer revenue bonds in the 1970's. Bond counsel has agreed that the portion of the fund dedicated to the Fair Board's bond-financed facilities could be as little as \$300,000, roughly 40% of the required insured value, without materially diminishing the bondholders' security. The balance of any losses that exceed that amount would have to be paid by the Fair Board and would amount to a kind of deductible.

The Fair Board is currently in complete compliance with the requirements of the bond issue. The property insurance policy with \$10,000 a year premiums is in place and is waiting to be activated as soon as the project is accepted by the Fair Board from the contractor. Payment of these exorbitant premiums will significantly diminish the ability of the Fair Board to maintain its buildings and grounds in good repair. State law does not generally require that state-owned property be insured, except as required by bond covenants. Through the passage of HB 2875, this unfair imposition can be avoided, at no cost to the general fund.

An agent currently under contract with Farmers Insurance Group of Companies submits a new business application according to underwriting guidelines set forth and specified solely by the company. The procedure for this process is by personal interview of an individual prospective insured or an existing insured already provided coverage through the company. The agent provides information to the company as is provided to him by the individual in mention.

The company then reviews it for acceptance by verifying information provided on the application by the agent. The company may do this by variable means: a Motor Vehicle Report, investigation by a credit report, personal contact by someone with the company directly to the household in mention, etc. The company, after this procedure is completed then has the final and full say in whether the business will be put on the books or declined, via the full authority of the underwriter. The agent has no authority to cancel a policy. They can however, recommend the company to non-renew a policy.

The company determines loss ratio by actual claims paid. This includes claims paid under property damage, personal injury protection, comprehensive and collision and monies set aside in reserves (of which the company may pay all, part or none). The money set aside in reserve is considered in its entirety against the agents loss ratio. Once again, reserve monies are totally determined by management in the claims department. The reserve money is set up to cover the maximum amount of any claim that could be made against the policyholder. Even though this type of reserve is a determining factor in an agents loss ratio, the company does not advise an agent as to the amount of reserve taken into consideration. The company considers this privy information. The only information provided the agent by the company is the unprofitable loss ratio status of which the agent is held totally accountable for. These reserves can be held against an agents loss ratio for an undetermined amount of years. An unprofitable loss ratio can result in limited underwriting authority. Meaning an agent can not bind anything in the Preferred company. All business has to be submitted for approval only, to the Preferred company. A District Manager may demand that an agent terminate a certain percentage of his current book of business, or the company may approach an agent and demand termination of his contract. All of this being a direct result of the unprofitable book of business currently in the agents office. This business being on the books solely by the approval of the company. This unprofitable status being determined by claims paid and reserve monies of which is solely determined by management in the claims office. Upon termination of the agent, the company then takes this totally unprofitable business and distributes it to active Farmers agents to service the business for a part of the commission. If the agent who the company determines is unprofitable agrees to terminate his contract at the request of the company would attempt to retain his book of business, the company will go to litigation to restrain the agent from doing so. It is not company policy to terminate the agent and the book of business, simply the agent.

HOW SECURE IS YOUR POSITION AS AN AGENT FOR ARMERS INSURANCE GROUP

It has come to our attention that the Company has decided that it is in their best interest to serve termination notices on 2 non-member agents in the Kansas City area due to their loss experience in their agencies.

The Company says it is the sole responsibility of the agent to make his agency a profitable one. Sure, it is the ultimate desire of each and every agent to show profitability; however, since we don't possess a crystal ball, we can't predict who will have that severe accident or when and to my knowledge, the Underwriting Department doesn't possess that crystal ball either. This puts the agent in a "damned if he does and damned if he doesn't" situation.

Paragraph "B" of the agent's contract says, "The agent agrees, in consideration of the companies' agreement: To sell insurance for the companies and to submit to the companies every request or application for insurance for the classes and lines underwritten by the companies and eligible in accordance with their published rules and manuals. All business acceptable to the companies and written by the agent will be placed with the companies." So, to keep from being terminated immediately under the provisions of Paragraph "C" for placing business elsewhere, the agent must submit all eligible business to the Company.

The Underwriting Department, in all their wisdom, carefully checks all information submitted and places their stamp of approval on each policy accepted by the Company. Now everyone is happy. . .the Company has new policies and premium funds to invest and the agent makes a commission. However, later some of the policyholders have some losses and the Company has to pay and they don't like it. . .the agent becomes unprofitable and now he must "CLEAN UP HIS AGENCY" as he somehow is suppose to know who, in advance, will have more losses. If he can't find out in advance who these people are, he gets served a termination of contract notice. Now the agent is gone. What has happened to all that bad business the agent wrote? THE COMPANY STILL HAS IT!

To solve their problem, the Company got rid of an unprofitable agent and the D.M. must do something with these policies, so he splits them up and assigns them to several currently profitable agents (he certainly wouldn't assign them to unprofitable agents). For this privilege, the Company is going to pay them 4% commission and probably destroy their loss ratios, so guess who the next victim will be? If this business is truly bad, what agent in his right mind would be willing to accept this business in his number knowing that all the losses would be assigned 100% to him and only be paid 40% of the normal commission, and probably be the next contract to get axed. Think about it. . .just how secure are you???

THE
 **Farmers Insurance Group** OF COMPANIES

6717 WEST 63RD STREET • MISSION, KANSAS 66202
MAILING ADDRESS: P.O. BOX 387 • MISSION, KANSAS 66201

January 12, 1982

Mr. Jack Gregory
2003 N. 77th
Kansas City, Kansas 66109

As you know, during the past three years you have been operating under Limited Underwriting Authority due to adverse losses in your agency.

During this time frame, we have counselled with you on measures which would help you improve your Underwriting loss trend.

You have been advised that the Companies could not tolerate Underwriting losses indefinitely and it was your personal responsibility to correct your loss ratio. Also, you were advised that failure to return your agency to a profitable position would result in termination of your contractual relationship with the Companies.

The results of your agency operation have not improved significantly for us to consider it to be in our best interest or your best interest to continue the contractual relationship.

In accordance with Paragraph C of the Agent's Appointment Agreement, we are exercising our rights by providing you with written notice of the termination of your Agent Appointment Agreement in 90 days.

Termination of your Agent Appointment Agreement will be effective April 12, 1982. We will compute your contract value and provide you with an accounting within a reasonable period of time following your termination date.

We will pay you contract value and we will be insisting on our rights under Paragraph H of your Agent Appointment Agreement. Paragraph H reads as follows:

"The Agent agrees to transfer and assign all of the Agent's interest under this Agreement and agency (including any interest in the telephone numbers and leased or rented offices location) to the companies or any other purchaser in the event they make payment to the agent pursuant to Paragraph G of this agreement. For the payment received, the agent further agrees that for a period of one year following the date of sale the Agent will neither directly

nor indirectly solicit, accept, or service the insurance business of any policyholder of record in the agencies of this district as of the date of sale. The agent acknowledges that all manuals, lists and records of any kind (including information pertaining to policyholders and expirations) are the confidential property of the companies and agree they shall not be used or divulged in any way detrimental to the companies and shall be returned to the companies upon termination of the agency."

Upon your termination date, we will exercise all of the provisions of Paragraph H.

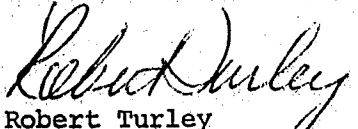
Per Paragraph G of your Agent Appointment Agreement, contract value will be paid in three installments at six (6) month intervals.

We expect you to honor all of your Agent Appointment Agreement provisions until your termination date. Breach of these Agreements before that time could result in immediate termination and breach of contract on your part, and make you liable for damages.

Shortly before your effective termination date, DM Larry Miller will be in contact with you to secure all materials. If you have any questions, please let us know.

Sincerely,

FARMERS INSURANCE GROUP


Robert Turley
Regional Sales Manager

RT:kh

cc: Bim Braddock - Regional Manager
Don Thomas - 04-96
Larry Miller - 04-77-001

AFFIDAVIT OF KEVIN COX

STATE OF OKLAHOMA)
) ss.
County of Oklahoma)

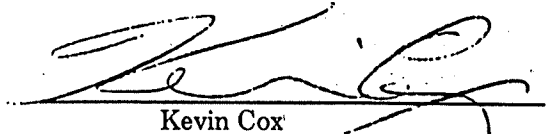
I, Kevin Cox, of lawful age, being first duly sworn, on oath state the following:

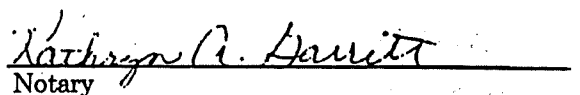
1. I am a member of the House of Representatives, State of Oklahoma, and the Chairman of the Insurance Committee.
2. I am also a co-sponsor of House Bill 1105, a Bill drafted for the specific purpose of protecting captive insurance agents from being terminated when claims dollars paid out in their territory are larger than the amount of premiums they take in. This Bill is also aimed at protection of the consumer within the insurance industry.
3. Many insurance agents contacted me to discuss the bill and offer their input. However, most of the agents voiced great concern that their companies not find out of their involvement for fear they would be terminated.
4. Specifically, two Farmers agents spoke to me on the telephone and stated they could not allow Farmers to find out that they had called because they feared they would be terminated. These same agents attended the Committee hearings, which were also attended by several Farmers management personnel. After one of the sessions, the two agents contacted me and told me that the management personnel had stopped them in the hall and threatened to terminate their agencies if they testified in behalf of House Bill 1105.
5. Doug King, a Farmers agent, testified on July 31, 1989 before the Insurance Committee in favor of House Bill 1105. His testimony was very helpful to gaining an understanding of the agent's dilemma. Several Farmers management personnel were present during Mr. King's testimony, specifically, Al Jennings.
6. In addition, agents from other companies have been threatened and harassed with termination if they persisted in supporting House Bill 1105. This behavior has so angered the House Committee that a special assignment has been given to investigate the retaliatory actions of the Insurance companies.
7. It is my opinion that Doug King was victimized by Farmers Insurance Company for offering his testimony in support of House Bill 1105, and that such action is a patent violation of his First Amendment freedoms and a damaging blow to the function of the Democratic legislative process.

FURTHER YOUR AFFIANT SAYETH NOT.

Subscribed and sworn to before me this 26th day of November, 1989.

My Commission Expires: August 28 1991
seal


Kevin Cox


Notary

House Bill 2944

My Name is Gail Hull, I had been a Farmers Agent for the past 29 years. I have just Resigned as an Agent for them 2/1/90. One of the major reasons for this decision was the fear of becoming a Limited Underwriter as they call it, by becoming unprofitable and the loss of my Agency by termination of my contract by The Farmers Ins. Group of Companies. I have seen this happen to other agents that I was acquainted with during the past 29 years. Several other States have already passed laws similar to this for the very same reasons, (Minnesota, Nevada, Maryland, So Carolina, New Mexico, Oregon) a bill is pending in Oklahoma. There is currently a law suit pending by a Farmers Agent against the company, alleging 1st Amendment Rights Violations by a Farmers Employees for testifying on their bill on this same matter. The Agent doesn't have a crystal ball to know who is going to have the next loss. The Companies make the Rates, have the final say as to who they accept, & pay all the Claims, However they hold the Agent responsible if a loss occurs.

Gail Hull

LAW OFFICES

Lerner, Veit & Zellmer

425 CALIFORNIA STREET
THIRD FLOOR
SAN FRANCISCO 94104
FACSIMILE: (415) 398-4228
TELEPHONE: (415) 781-4000

August 2, 1989

Mr. Skip Myers
5711 E. 71st Street, Suite 111
Tulsa, OK 74136

Re: Farmers' Loss Ratio
Termination Practices
Our File No.: H1694.01

Dear Mr. Myers:

As you requested, I offer my opinion on Farmers Group, Inc.'s practices regarding termination of Farmers agents for high loss ratio.

Although Farmers may claim such terminations are rare, the carrier often argues that high loss ratio is good cause for termination. Indeed, Farmers' form and other letters attempt to foist upon the agent full responsibility for loss ratio. Agents with high loss ratio are often compelled, or at least repeatedly and strongly urged, to resign their agencies. Many do without benefit of independent legal advice.

Moreover, at least two local agents recently told me that Farmers terminated their agencies for high loss ratio. It seems the insurer has become much bolder in this regard.

In my opinion, high loss ratio is not a good cause for termination, for several reasons. Farmers writes the policies, calculates the risks and consequences of the occurrence of covered events, underwrites the risks, sets the premiums and issues the policies. It does so with reference to large populations or regions, not specific agencies. If Farmers underestimates a risk, consequence or premium, or if it does not set or apply underwriting guidelines appropriately, only Farmers is at fault, not its agents.

The agents are sales and servicing personnel. They cannot set a premium, underwrite a risk, or issue a policy. Agent responsibility for risk analysis is limited to the "field underwriting" guidelines in the Agent's Guide. Most agents follow those guidelines. Farmers, and only Farmers, does the business of insurance, enjoys the profits from that business, and risks losses from it.

Mr. Skip Myers
August 2, 1989
Page 2

Farmers' primary responsibility for underwriting and risk and premium calculation is especially evident where the agent has limited underwriting authority. In such a context, the agent cannot bind Farmers, and thus Farmers cannot be exposed to any risk whatsoever, until Farmers reviews the risk and agrees to the exposure. Again, there is no basis for blaming an agent for Farmers' mistakes in underwriting.

Furthermore, Farmers measures loss ratio with reference to preferred automobile insurance (Farmers Insurance Exchange) only. An agency may be profitable to Farmers overall, in light of the agency's homeowners', standard automobile, commercial and life insurance, and yet have a high loss ratio solely because the agency's preferred automobile business, by itself, produces a loss to Farmers. In such circumstances, Farmers actually makes money on the agency, yet with unwarranted myopia, conjures up an artificial loss.

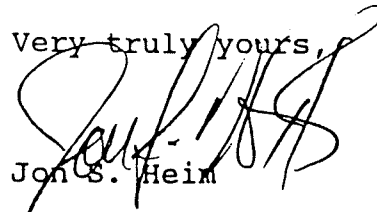
Farmers pursues subrogation halfheartedly at best. This lackadaisical attitude does nothing to mitigate the losses to Farmers or the loss ratios of its agents.

Finally, although Farmers cries ad hoc over losses from specified agents' businesses, after termination Farmers, under its 500 series program, will move as fast as it can for those very same businesses. 500 series agents, working at commission rates reduced by 60%, will write and telephone terminated agents' customers en masse, urging them to maintain their relationships and renew their policies with Farmers. Farmers will hope and try to keep all of the customers and policies in this manner. In the past, Farmers has sued agents who tried to service, solicit or retain their customers after termination.

In short, when agents are terminated or pressured to resign for high loss ratio, Farmers keeps the supposedly bad business. Only two circumstances change: Farmers cuts its commission costs by 50% to 60%, and the terminated agents are deprived of their businesses and livelihoods.

For these reasons, I see statutory protection as critical to the ongoing career security of Farmers and other insurance agents. From my experience, I conclude that without legislative assistance, Farmers will continue to force resignations from, and perhaps to terminate, its longstanding and other agents for high loss ratio.

Very truly yours,


Jon S. Heim

Gary Purdom

Agent 04-37-29

February 20, 1990

Farmers Insurance Agent

- pg My experience with LUA
 3 DMs with Lua
 3 times Lua
 Flood and hail
 Um Claims
 Subrogation
4. Agents can not cancel policies.
 Agent only request policies to be cancelled.
 Agent can only refuse to write otherwise eligible risks.
4. Agent can not get company to keep risk.
 Ask for exception to rules from underwriting
 Sweet talk or bribe underwriters
5. Company trains agents.
 Who to can and cannot sell
 How to Sell
 What to say
 Paper on wall
 Walk the streets
6. Figures don't lie
 No clear rules for profitability
 80/20 rule
7. Discrimination of insured due to agent.
 No exceptions to rules
 Current policy holders face tougher underwriting
 Add new policies
 Add teenager
 Get married
 Less and less discrimination
8. Agent-public relationship damaged
 Who do you work for anyway
 May view insureds as detriment to employment
 Agents as untrustworthy
 Agents reputation
10. Agents ability to give good service
 Insured to handle own claims
 Boxes of paperwork
 Long demoralizing meetings
 Letter campaign
12. Life after LUA.

My experience with LUA

I have been with Farmers Insurance since 1973. I answered an add in the Kansas City Star and got Cliff Poindexter. I interviewed with Cliff and he came to my home to interview my wife. I had already decided to become a casualty insurance agent before I answered the add.

I interviewed with State Farm, MFA, Alstate, and American Family. They all offered contracts. I decided on Farmers for two reasons. First, I liked the contract and secondly, I was offered a few policies and an office in Blue Springs.

In the last seventeen years, I have been on the LUA program, for losses, three times. The first I call a problem with Subrogation. I was taught the proper way to handle a claim was to have Farmers fix our insured vehicles and then they would subrogate to the other company and return the deductible to our insured's. I understood this was the fastest way to get the insured back on the road.

This could be the fastest way but there are problems.

What if claims does not collect very well. What if the other party is uninsured. What if it takes a long time to collect. All of these things can make an agency unprofitable. By the time I got on the LUA program, claims had solved their problems and had collected on my claims. I was profitable the next year.

The second time I was an LUA, I called it a Flood and two hail storms later. True that anything over \$20,000 is forgiven but still \$60,000 to my size operation of about \$200,000 premium

was too much. Because of the 3 year average rule I was an LUA for two years before I had two profitable years for the one bad year. Since then the rules have been changed.

The third time was a case of a Stacked Uninsured Motorist claim. The claim was simple. My retired insureds were traveling in their motorhome. Early one morning about 8:00 AM the wife was driving while her husband cat napped in the double front seat. In rounding a curve she met a car on her side of the road traveling at a high rate of speed. In avoiding the oncoming car she lost control. The motorhome left the roadway and she was thrown out of the driver seat. The motorhome crossed the road and hit the embankment. Both he and she were injured and the motorhome caught fire and was a total loss.

The motorhome cost \$30,000 plus medical bill, that was the easy part and was paid straight a way. The hard part was the uninsured motorists claim for injury. This is where stacking of policies was first introduced to me. It seems that both husband and wife could collect under the uninsured motorist coverage on each of their three policies. For they had insured not only their motorhome but a family car and a farm truck. There was no question, due to his injuries the husband was entitled to the limit of \$25,000 per policy for a total of \$75,000.

The wife, it was thought was less injured and was offered only \$5,000. The case drug on for nearly three years before it was settled. As long as the case remained unsettled I had to carry the \$150,000 loss on my reserves. As soon as the case was settled the entire amount was forgiven.

I had been on the LUA program for three years this time.

Over the period of seventeen years I have been an LUA 8 years. The first year as a new agent I was on the LUA status and the second year because I did not have the required number of policies in force. Half of the time I have been an agent I have been under some type of restrictive underwriting program.

Agents cannot cancel policies

I was told if I was to stay on with Farmers I must cancel 50 policies. I sent in a request to cancel the 50 policies in a three month period of time. If the company agreed, they would send an underwriting action stating cancelled by agent request. If however, they did not want to cancel a policy they sent no underwriting action. In some cases they would send me a note and in others they did nothing. In one case I felt the policy should be cancelled but I was told that I could not cancel a policy only the underwriter could.

It seems the only thing an agent could do was to refuse to write a policy that was otherwise acceptable. All agents try to get policies issued that do not fit the company guide lines, if the agent has other circumstances to support the policy being accepted. But few agents spend time in trying to find reasons to not accept otherwise acceptable risks. But it was to this power the company gave a lot of importance. It was in this area that I was encouraged to discriminate based on almost any conceivable ground. Since I have no crystal ball I began to doubt my own judgement. I was led to believe that good agents know who to write and who not to write and that I must be stupid not to understand. It was this area that Farmers justified asking for my

resignation.

An agent can not get company to keep a risk

On occasion an agent can ask for an exception to a rule, such as the accident citation rule or the no prior coverage rule. To the degree he is successful is often dependant on his relation with the underwriter. When I officed with Duane Battles, he was very good at convincing underwriting to accept otherwise unacceptable risks. And on several occasions I had asked for an exception and was refused so I gave policy to Duane because he could get it issued.

Company trains agents

I had never owned a car insurance policy before I became an agent. I was trained by my District manager. Every day I went to his office and studied company supplied books. I was taught what was covered in the policy and how to sell the policy. The training was very detailed. I was trained to sell only one product, the auto policy. I memorized the auto presentation. I was taught how to solicit, by using the phone to call for x-dates. I also threw literature in driveways. I made cold call in residential areas, by going house to house knocking on the doors. I did the faithfully including several days with Cliff, who had been a manor bread salesman, and like cold calling.

Paper on the wall method of underwriting. Much like the guy with the dirty socks, I was instructed to send every application to Farmers and if they did not want it they would cancel it. I was told not to worry about the one's that falls on the floor, just keep sending in those applications. After all I

only get paid for what sticks. And production was the name of the game. I was told if I didn't produce I would be terminated.

Production was emphasized by Jim Ohea, then region sales manager, he instructed me to walk the streets asking everyone if I could write a policy. He told me to leave from his office at 35th and Noland Road and walk north asking everyone I saw for business. He said when I got to 23rd Street I should turn East, and continue East to 291 Hwy. If I had not written a policy by the time I got to 291 Hwy, I should quit the insurance business.

As a agent with limited underwriting authority, I was unable to write a long list of people that advanced and preferred agents could write. I was assured that with time I too could write these people. I had made arrangements with other agents to write these people with the promise that I could have the policies at some later date. They of course kept the commissions.

Figures don't lie

There are no clear rules for how to determine underwriting profitability. The way it was explained to me was that an agent is profitable if his loss ratio is less than the state breakeven percentage of about 76%. That seems simple until you try to understand what is added to losses. First there are the claims paid. Then there must be some adjustment for large losses. Then there must be some adjustment for a category of unreported claims. This is a percentage of claims paid. Then there must be some adjustment for claims made, but not yet paid, called reserves. This is a figure the claims office places on a loss,

when reported. This figure represents the most loss expected.

I have never been able to obtain the same figures the company uses and never seen anyone who claimed to know how they are derived with any precision. The figures can be confusing when in the case of my uninsured motorist claim, the underwriting department does not know how claims are settled. For example, the insured had three policies each with \$25,000 of coverage. The claims department has set in reserve \$150,000 for the two claimants. Since my profitability was involved, I asked that all \$150,000 be backed out because claims had already paid over \$30,000 for the accident. The underwriting department would allow only \$5,000 per policy, for a total of \$15,000. They claimed that is was three different policies and were unaware of stacking and would not consider any further conversation.

Just finding which claims offices have reserves is very difficult and you need to know because if they have reserved more than \$25,000 you can ask to have the excess backed off. You must first find out which claims offices have what reserves. If a policyholder has moved it can be very difficult. You must also watch for error in report in you losses. The real art to the reserves is in understanding it is only the change in the level of reserves is used to compute in the loss ratio.

If the DM wants, he could transfer some polices to your agency. You could then enjoy the premium and not have the burden of previous years losses. And if these policies are profitable then it will not take very many to make your agency profitable. This helped me when Duane Battles became a district manager and I was allowed to keep a few of his policies to help

offset the loss of his share of expense. This allowed me to become very profitable.

Then there is the problem of new business. It seems that since new business premiums are not earned until the end of the policy term, the company only counts renewal premiums for the loss ratio. This was explained to me by then head of the auto underwriting department. So if you want off the LUA program the best thing to do he told me was not to write any new business. Because the claims would be reflected on the loss report but not the premiums.

The 80/20 rule was explained to me as fact. Eighty percent of all claims come from twenty percent of the policies. It follows then, by their logic, that if you get rid of the twenty percent that caused the problem you will be rid of eighty percent of your claims. It was further explained that twenty percent of the agencies generate eighty percent of the claims. Therefore if Farmers gets rid of 20 percent of the "bad" agents we could lower the rates. The Regional sales manager not only explained this to me but read a letter from some agent who was complaining about the unprofitable agents. This agent thought he should be given special rates for his insured's because he was profitable.

Discrimination due to agent

The easiest way to discriminate is to not allow any exceptions for an agent. They just enforce rules very carefully. And this can cause problems for present customers. There is set of rules for new business and a set of guidelines as to when to

cancel a present policyholder. The difference between new business rules and cancelation rules is where your book of business exists.

A customer of a profitable agent adds a new car he is expected to fall within the upper limit for cancelation. But when the agent becomes an LUA his customers must meet the more strict rules of the new business guidelines. These customers are subject to underwriting even if they have no losses, any time they make a change such as add a teenager, get married, or buy an addition auto.

This type of discrimination has gotten less with each time I was on the LUA program. But it is still used with adverse effects on the public.

Agent-public relations

Who do you work for anyway? I always told customers I worked for them, that I was paid a commission based on thier premiums. But when the company tells you they are going to quit doing business with you because of your insured, you find yourself in a bad situation. You begin to view your clients not as a source of income but as a source of loss.

The agent becomes untrustworthy. My current district manager told one of my insured's that they could not trust me because claims paid out of my agency effected my income and that I was in trouble with the company over losses. Other agents in your district begin to act as if you have the plague.

Bart Walsh, my district manager told the agents at a meeting I was not invited to that I was history and that I was

untrustworthy and had done just terrible things. While they were never told what I had done they knew enough not to be associated with me. In the course of their x-dating it became okay to tell my insured that I was in trouble and that they would be wise to transfer their policies to another agent. And the sad part is they are probably correct, because a customer of an LUA has a much harder row to hoe.

Good Service

Farmers Lua program seems more designed to cause the agent trouble than to help increase the agents ability to do better at underwriting. Farmers in my case required me to file with the district manager boxes full of reports. I spent over 20 hours per week in additional paperwork. I was required to attend long demoralizing meetings. Each meeting required hours of preparation. Other monthly meetings were usually an excuse for the District manager to do some rubber hosing of his own. Plus a letter campaign in which they ask you what you are doing and what you plan to do. No matter what your answer, it is not good enough. They hope you will promise something that they can use.

All of this distracts from the agents ability to give good service. Insured's are encouraged to settle their own claims for fear of turning in claims in which they are not at fault. I have heard stories from Farmers insureds of having a car in some body shop for over a year waiting for the other insurance company to get the unit repaired.

All of my training with Farmers has been in the area of selling. And yet I found myself trying to help my insured settle

thier own claims for fear of turning in claims that were not my insured's fault. I took some courses to help understand claims. And the claims office often would help with answering questions. If you're an LUA and an insured turns in a fault free claim it can mean increased underwriting activity. The LUA program gives no relief for fault free accidents, uninsured motorists claims, claims for medical payments only, or element claims. You are asked why do you have this policy in your agency, if it has cost Farmers any money.

Life After LUA

After you get off the LUA program you think everything is back to normal. But this is not the case. I was treated as a second class agent. Much like someone who had been accused of some crime but whose attorney had used some trick to get them off. Underwriting stopped focusing on my book of business, but the letter campaign continues. The district manager's campaign to get me to quit continues. The Regional sales dept continues to cause me trouble. The sales department has gotten the underwriting department to cancel my office's insurance policy. I have been asked several times to terminate my agency from several people in the sales dept. This includes my district manager Bart Walsh who said he could not run his district properly if I was in it. Bob Lemming who said that I had the worst agency in the company and that it was a black day on the history of Farmers, when they contracted with me. Mark Peterson asked for my termination, when I was the most profitable agent in the district. The first point of attack after the LUA program was

that I did not have enough sales count. When it became clear that getting rid of me was the real aim of the program I have told them I would be happy to sell my agency to them for a fair market value. They said that they wanted it but would only pay the contract value, which is about one third of its market value.

As follows are a few reasons why I feel House Bill #2944 is very important to Kansas policyholders doing business with an exclusive agent.

- #1. An agent's ability to do business with his clients or a new prospect has been very restricted and limited once being at a limited underwriting status.
- #2. A policyholder can become very secure dealing with his insurance agent over years of service. The client, without his knowledge or consent, will be doing business with a new agent which can limit his ability to do business, loss of confidence.
- #3. The agent should not be terminated over loss problems, no more than the company underwriter would be. The company underwriter had the final say so in accepting the risk and had sixty days to get off of it.

#4. An exclusive agent should not be harassed, intimidated, or terminated because he or she belongs to a professional organization or makes contact with any governmental agency.

#5. The exclusive agent's loss-ratio can go very high over losses that the agent's ability to select a policyholder has no control over: u/m claims and Comp claims, nothing negligent on the insured's part.

Ed J. [Signature]
2-20-98

House Bill 29441

My name is Don McKelip agent of 15 years with Farmers. About 5 years ago I encountered a loss ratio problem brought about by 5 fairly serious losses. I became an LVA on Farmers because of Farmers Ins program and was required to attend a meeting in the Regional Office. Five people were there telling me what was wrong with the agency. I told them this was a statistical abnormality and would correct itself. After a discussion along these lines the SLS manager suggested that he might terminate my contract; which he obviously didn't do. I suffered with Earl Hull during the following year in the LVA program. He could quote Farmers preferred rates - I couldn't.

Two years later I again was a profitable agent - and am today the most profitable agent in my district. The same insurers who got me into the LVA program happened to get me out. I suspect that if I am an agent long enough this will happen again as no one has control over this type situation.

Don McKelip

HARRY WILSON

MAYOR OF GV. MISSOURI

AGENT OVER 20 YEARS W/FIB.

19 YEARS OUT OF 20 WERE PROFIT-
PERSONAL EXPERIENCE AS A LIA ^{ABLE}
(LIMITED UNDERWRITING AUTHORITY)

1979 TEENAGER HIT A NUN WHO

1) WAS JAYWALKING ACROSS A
RAIN SLICK STREET ON A
CREST OF A HILL

FIB PAID \$40,000 TO THE CATHOLIC
DIOCESE. THE CHURCH GOT THE
MONEY & REASSIGNED NUN TO
OHIO

2) A 57 YEAR OLD RETIRED
MILITARY MAN LOST CONTROL
OF HIS BRAND NEW SUBURBAN
AND AIR STREAM TRAILER. INSURER
CARRIED HIGH LIABILITY LIMITS
AND A COVERAGE CALLED
GUARANTEED BENEFITS. FATHER
PAID A TOTAL OF 72,000 ON
THIS LOSS

AS A RESULT OF THESE 2
LOSSES I WAS ASSIGNED TO
BE A LIMITED UNDERWRITER,
I WAS LISTED IN THIS MANNER
FOR 2 YEARS.

I COULD NOT BIND AUTO INS
FOR EXISTING CUSTOMERS.

HOUSE BILL 2944
EXCLUSIVE AGENT CONTRACTS
HOUSE INSURANCE COMMITTEE
February 20, 1990

TESTIMONY BY LEE WRIGHT
LEGISLATIVE REPRESENTATIVE FOR FARMERS INSURANCE GROUP

Thank you Mr. Chairman and members of the Committee. My name is Lee Wright and I am representing Farmers Insurance Group of Companies. We appreciate this opportunity to appear in opposition to House Bill 2944.

Farmers Insurance is the second largest auto and homeowners insurer in Kansas and the third largest property and casualty insurer in the country. We currently have 304 independently contracted agents operating in Kansas. We are extremely proud of our agency force and we realize the success of Farmers is dependent upon the success of it's agents.

If our agents fail, we fail. If our agents have a reputation that is not a good one, the public's assumption is that our reputation as a company is not a good one.

It is in our best interest to do everything we can to provide our agents with the support and reward systems that allow them to work most productively.

It is for these reasons we strongly oppose HB2944 as it could significantly reduce or eliminate the incentive for proper field underwriting by the agency force and restrict a private company's ability to efficiently address an agents adverse risk selection.

With me today is David Tackett, Farmers District Sales Manager from Lawrence and Don Ernst, a Farmers agent in Leawood.

As a District Manager, Mr. Tackett is an independent contractor. His responsibilities include recruitment and training of agents as well as loss-ratio administration.

Because of his familiarity with agent development I have asked David to briefly describe our Profitable Agency programs and the lengths to which Farmers goes to assist in the rehabilitation of an unprofitable agency.

TESTIMONY ON HB 2944
David Tackett - District Manager
Farmers Insurance Group

Thank you Mr. Chairman and members of the Committee.

My name is David Tackett. I have been a District Manager for Farmers since 1981. Prior to that I was an agent for two years and 3 months with Farmers.

I have been asked to discuss the Profitable Agency Programs which are in place to recognize Field Underwriting and to provide continuing assistance to agents. These are:

Preferred Underwriting Agent Designation
Prevent Limited Underwriting Agent Program
Limited Underwriting Agent Designation

The designation of Preferred Underwriting Agent (PUA) is earned by those agents who have demonstrated outstanding ability to select and maintain a profitable Farmers policy-in-force account of automobile policies.

The Prevent Limited Underwriting Agent Program (PLUA) was developed for agents who have a cumulative underwriting loss of over 10% of premium and between \$60,000 and \$120,000 over a three year period. These agents are invited to participate in this program. Considerable time is devoted to working with these agents in an effort to help them establish programs in their agencies designed to lead to improved results.

Discussions include the importance of good field underwriting, the impact on our market position and the agent's role in achievement of a favorable underwriting result.

It should be stressed that this is a rehabilitation program designed to assist an agent in returning his or her book of business to a profitable level. It is also totally voluntary. Agents in this program maintain complete binding authority in the field. There are 15 Farmers agents in Kansas currently in this program.

The Limited Underwriting Agent (LUA) is also a rehabilitation program. This designation applies to those few agents who have a cumulative underwriting loss of over 10% of premium and \$120,000 in the preceding 36 months provided the agent was appointed prior to start of the current 36 month period.

Agents who are in the LUA program may not bind automobile business in the preferred auto company of Farmers without the company's approval. However, the agent is free to bind automobile business in the standard company as well as Homeowners and Commercial business in the Preferred Company. Life Company products are not affected by this agent designation. At this time, of Farmers 304 Kansas agents, only one is on this program.

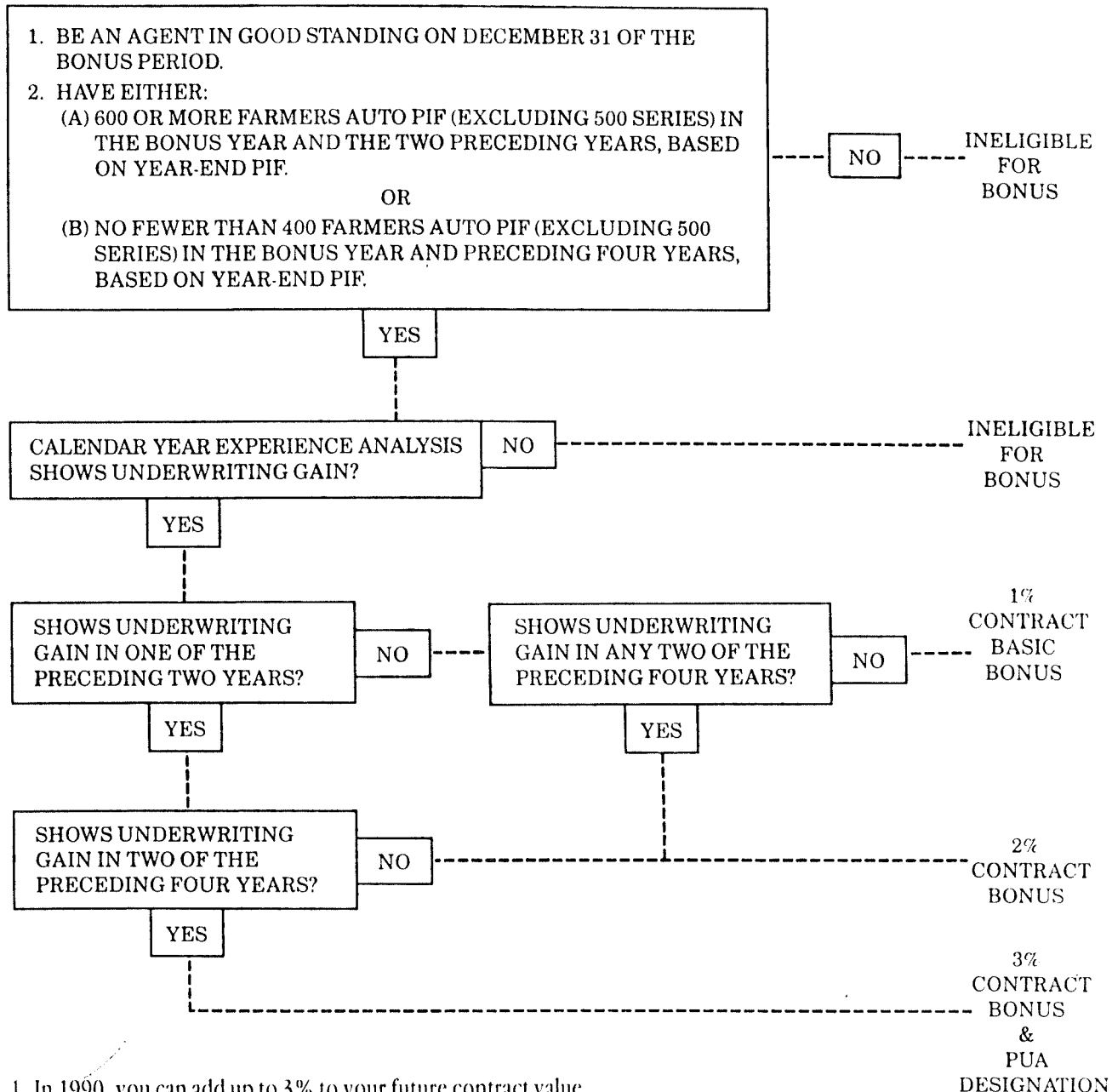
Farmers Insurance also has an incentive program in place to reward agents who have consistently achieved profitable underwriting results known as the **Farmer's Agent's Underwriting Contract Value Bonus.**

Besides rewarding agents for profitable underwriting results, the program is also designed to motivate agent's to increase their policies in-force in all

Companies and to provide an incentive for better than average agents to stay with Farmers throughout their entire careers.

Thank you Mr. Chairman that concludes my remarks.

1990 UNDERWRITING CONTRACT VALUE BONUS



1. In 1990, you can add up to 3% to your future contract value.
2. Bonuses can add up to 100% of contract value.
3. Catastrophe and shock losses will not be backed out for bonus.
4. Bonus period will be January 1 to December 31 each year.
5. A 3% bonus earns PUA status and standard-rated commissions on all Farmers Auto Policies.

Agents must be appointed under the 32-1106 Agent Appointment Agreement (32-1107 for Michigan)



FARMERS INSURANCE GROUP OF COMPANIES

DON ERNST

AGENT
4701 COLLEGE BLVD., SUITE 101
LEAWOOD, KS 66211
PHONE: Bus. 491-3535
Res. 491-5584

MEMBER OF PRESIDENTS COUNCIL

HOUSE BILL 2944 POSITION: OPPOSED

I have been asked to offer my comments on House Bill 2944 from my point of view, and several of the agents with which I am associated.

Myself and several others fully understand and appreciate the companies point of view. If an agent has shown a history of not being able to maintain a profitable agency, perhaps he needs a little guidance. I don't feel that the company with which I am associated currently shows any unjustified requirements as far as limiting what we as agents can do based on our track record.

Some agents would lead you to believe that once the business is accepted by the company, their responsibilities have ended. This is not true.

The field underwriting process goes much deeper than the initial interview with a potential client, and whether they meet all of the the underwriting guide lines.

Establishing proper rate classes is also part of the initial underwriting process, and is not a problem, with the way this particular bill is stated.

However, the variables which are an underlying issue include many other factors. One of which is establishing the proper coverage for the client. It has become a known fact over the years that an insured is better off with the proper liability limits and having the deductibles up to current standards. This saves the customer premium dollars and also reduces the claims with which the company is faced.

If an agent is doing a proper job in continually underwriting his business, by means of adjusting coverages with current trends, and being sure that each client is placed properly within the rate structure, there should not be a problem with profitability for the agency the company, and most of all reducing the premium for all insureds.

I am not being completely naive. I know that the best agent, and agents that are sincere about doing the best job possible, can have a bad year. The companies also understand this. That is why they look at a three year trend.

When I hear statistics that tell me that it is a very small percentage of the agencies which have the largest percentage of losses, and that it is not an isolated year, but the same agents year after year, I become extremely frustrated in knowing that the rates of the entire territory are being adversely affected by a handful of agents. This is a problem that I feel the companies not only have a right to control, but also an obligation to control to protect the rate structure for the clients, and the profitable agents that would like to keep the rates down to stay in a competitive position.

Personally, I feel that if my agency has shown a profit year after year, because I have done a good job in underwriting my book of business that perhaps I should be shown some consideration over other agents. I know that this statement is completely opposed to the wording of this bill.

I am making all of these comments following a year in which my agencies profits are going to be very border line. However, I also feel that I as an agent, do have control over turning this situation around. For me to throw my hands up and put the responsibility on the initial underwriting is ludicrous.

I am very concerned with the trend in insurance claims, and premiums, and feel that it is my responsibility to do my part to control it.

I would feel extremely frustrated however, if I am doing my part and the legislative body mandates that the insurance companies cannot do all in their power to control their rate structure.

Thank you Mr. Chairman, that concludes my remarks.

Kansas Association of / PROPERTY & CASUALTY
INSURANCE COMPANIES, INC.

L. M. Cornish
Legislative Chairman
Merchants National Tower
P. O. Box 1280
Topeka, Kansas 66601

MEMBER COMPANIES

Armed Forces Ins. Exchange
Fl. Leavenworth

Bremen Farmers Mutual Ins. Co.
Bremen

Consolidated Farmers Mutual Ins. Co., Inc.
Colwich

Farm Bureau Mutual Ins. Co., Inc.
Manhattan

Farmers Alliance Mutual Ins. Co.
McPherson

Farmers Mutual Insurance Co.
Ellinwood

Great Plains Mutual Ins. Co., Inc.
Salina

Kansas Fire & Casualty Co.
Topeka

Kansas Mutual Insurance Co.
Topeka

Marysville Mutual Insurance Co., Inc.
Marysville

McPherson Hail Insurance Co.
Cimarron

Mutual Aid Assn. of the Church
of the Brethren
Abilene

Swedish American Mutual Insurance Co., Inc.
Lindsborg

Town and Country Fire and Casualty Ins. Co., Inc.
Hutchinson

Upland Mutual Insurance, Inc.
Chapman

Wheat Growers Mutual Hail Ins. Co.
Cimarron

Patrons Mutual Insurance Co.
Olathe

February 19, 1990

Representative Dale Sprague
Chairman
House Insurance Committee
Statehouse
Topeka, KS 66612

RE: House Bill 2944

Dear Chairman Sprague:

The Kansas Association of Property and Casualty Insurance Companies, an association of domestic property and casualty insurance companies in Kansas, is opposed to House Bill 2944.

We believe this bill would have the effect of relieving the agent of all responsibility, other than transmitting completed applications without omitting or altering information provided by the applicants.

It should be noted that this bill impacts not only "direct-writer" companies but also American-agency system companies which frequently have agency contracts with agents who write 80% of their business with a single company.

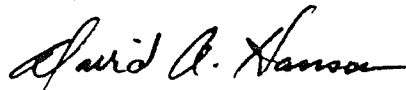
Insurance companies must place substantial reliance upon their agents in evaluating applicants and placing appropriate coverages, above and beyond filling out and transmitting applications. In the contractual relationship between the insurance company and the agent, there has to be a certain amount of mutual responsibility and reliance, as well as protection of their respective contractual rights. The proposed legislation would unreasonably interfere with existing contractual

Representative Dale Sprague
Page Two
February 19, 1990

arrangements and would also unreasonably restrict future contractual rights and obligations of insurance companies and agents, without giving any increased rights or protections to the companies. Such provisions may in fact discourage competitiveness and ultimately insurance availability in Kansas by unilaterally restricting an insurance company's right to choose its agents. We feel that this would not be in the best interests of the insurance industry nor the Kansas consumer.

For these reasons and those stated by the other opponents, we would ask that this bill not be recommended favorably.

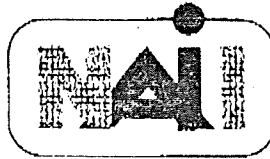
Respectfully,



DAVID A. HANSON

DAH:sh
cc: Committee Members

National Association



of Independent Insurers

2600 RIVER ROAD, DES PLAINES, ILLINOIS 60016-3286

708/297-7800 FAX: 708/297-5064

L. Eric Loewe
ASSISTANT COUNSEL

February 20, 1990

The Honorable Dale Sprague
Chairman, House Insurance Committee
Kansas House of Representatives
State Capital
Topeka, Kansas 66612

Dear Representative Sprague:

On behalf of the National Association of Independent Insurers (NAII), I am writing to oppose House Bill 2944. The NAII is comprised of approximately 560 member companies, over 100 of which write insurance in Kansas. Our members represent a wide cross section of the industry ranging from single state to large, national writers. Many of our companies rely on local agents to produce business. It is the position of the NAII that HB-2944 is an unwarranted interference with the insurer/agency relationship.

Insurance agents generally have been regarded as independent contractors rather than employees. As such it is the terms of the contract that govern the rights and duties of both the agent and the insurer. Most courts that have ruled on the issue of agent termination have held that agents are terminable at will. Although several states have enacted legislation requiring notice to an agent before termination, only Michigan and New Mexico

Hon. Sprague

February 20, 199.

Page 2

have gone so far as to prohibit termination for adverse loss ratio experience. The NAIL believes that Kansas would be ill-advised to join these two states at the forefront of restricting the contractual relationship between agents and insurers.

From a practical standpoint, HB 2944 may weaken an agent's incentive to select appropriate risks. While the company may retain the underwriting authority, the agent has instant access to information about the risk that will not appear on the application. It is this wealth of special information that makes the agent's initial decision to write the risk important to the insurer. By removing the possibility of termination for adverse experience, the agent is encouraged to disregard facts that are known only to the agent that would otherwise result in a denial of the application. This is especially true given the provision in section 1, paragraph c that vests the agent with a perpetual right to the commissions on the business. On the other hand, the loss ratio provisions currently used in agency contracts encourages the agent to consider the insurer's interests before writing a risk.

The NAIL further opposes HB-2944 because of serious questions about its application to existing contracts. The bill, as written, applies to all contracts. This amounts to an unconstitutional impairment of existing contractual relationships. Many agency contracts are perpetual and may remain in force for several years without renewal. At what point are these contracts subject to the provisions of this bill?

Hon. Sprague

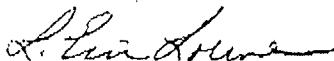
February 20, 1990

Page 2

A third significant defect in HB-2944 is its definition of an exclusive agent by the percentage of business written for a company. This will surely encompass a greater number of agents than intended. Moreover, the determination of whether an agent is an exclusive agent, and therefore what contractual provisions are legal, can only be made after-the-fact. This places an impossible burden on companies negotiating contracts with both new and existing agents. This bill has the practical result of forcing insurers to treat all non-employee agents as exclusive agents.

The NAII respectfully requests the Insurance Committee to consider these arguments and to not recommend passage of HB 2944.

Sincerely,



L. Eric Loewe
Assistant Counsel

LEL:car

Marla Bark Dembitz
Assistant Counsel

Allstate Insurance Company
Allstate Plaza North
Northbrook, Illinois 60062
(708) 402-6718

February 20, 1990

Representative Dale Sprague
Chairman of the House Insurance Committee
State Capitol
Topeka, Kansas 66612

Re: House Bill No. 2944

Dear Representative Sprague:

On behalf of the Allstate Insurance Company, I would like to state our position regarding House Bill No. 2944. In general, this Bill prohibits insurers from cancelling a contract with an exclusive agent and restricts the insurer's right to manage an exclusive agent based solely on the loss ratio experience of that agent's book of business, if certain conditions are met.

As of 1988, Allstate's market share for automobile insurance was 4.0% and its market share for property insurance was 4.7%. Thus, we have an interest in any proposal that could restrict our ability to effectively manage our insurance business in the State of Kansas. Also, this Bill is of concern to us because we plan to utilize exclusive non-employee agents in the near future and some of our present independent agents in Kansas may meet the requirements for the proposed statutory definition of "exclusive agent."

The Allstate Insurance Company would like to go on record as opposing this Bill for the various reasons outlined below. First, we want to stress that insurance agents, in general, do have some degree of control over their loss ratio experience. Every Allstate agent is required to conduct field underwriting and, therefore, is instrumental in determining whether or not an applicant is the type of risk that is contemplated by our rating plans and book of business. Allstate places great importance on field underwriting for several reasons. First, it helps to reduce the underwriter's time in reviewing applications, thus increasing time management and controlling expenses. Second, agents have access to certain criteria that is not available to the underwriter. The classic example is the agent who rejects an application because, among other factors, the applicant appears intoxicated. Had the agent written the policy, the underwriter in this scenario would most

likely not have been aware of the applicant's behavior and might be unable to accurately assess whether or not the policy should be cancelled.

Allstate is concerned that if this Bill is passed some agents will lose their incentive to carefully underwrite and will be less selective in writing their book of business. If this does indeed occur, then more risks unmatched to our rating plans will be accepted on the front end. Although the underwriter's responsibility is to screen these risks, it is highly likely that many claims could occur during the cancellation notice period. The logical conclusion to this scenario is that rates may have to increase to compensate for the increase in claims.

If agents no longer have any accountability for their loss ratio experience, Allstate may have no choice but to require all agents to conduct stricter underwriting procedures, such as inspections of automobiles. These additional procedures will obviously be time consuming and costly.

Furthermore, Allstate prides itself on having a quality agency force, in part due to its efficient management over these agents. In managing its agents, Allstate utilizes a set of criteria which includes loss ratio experience. By eliminating this criteria as a basis for termination, this Bill will eliminate a very significant management tool, and we will have less ability to effectively manage our agents and rates.

This Bill not only eliminates a significant management tool, but more importantly, it eliminates our right to freely contract with our agents. As previously mentioned, some of our independent agents may fall into the proposed definition of "exclusive agents." These Allstate agents are terminable at will and are free to cancel their contracts for any reason just as we are free, with certain exceptions, to cancel their contracts. This Bill, in effect, dictates the terms of our agreements with our agents and impairs our right to freely contract with others.

We also note our concern from a fundamental fairness standpoint, as well as a possible legal standpoint, of treating "exclusive agents" differently than other agents. From many years in the business, "independent" agents often have provisions in their contracts with insurers that compensate them on the basis of the loss ratio that their book of business produces for an insurer. This Bill does not seek to alter that "management tool" as applied by some insurers, but only seeks to impair the management ability of insurers with "exclusive" agents. We believe that it is fundamentally unfair to prohibit the consideration of the loss ratios of the business produced by one type of agent but allow the

February 20, 1990

Page 3

same type of practice for other types of agents.

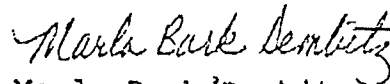
We also want to note that Section 1(c) appears to be ambiguously written. According to the language of this provision, agents will be entitled to commissions for any renewal business that occurs after their termination. We do not believe this is the intent of the Committee, and request that this provision be rewritten to more accurately reflect the Committee's intent.

For all the reasons mentioned above, we urge this Committee to do nothing to impede our contractual right to manage our agents' loss ratio experience.

We respectfully request that this letter be made a part of the hearing record on this matter.

Thank you very much for your time.

Sincerely,



Marla Bark Dembitz
Assistant Counsel

MBD:ems

cc: M. C. DeBasio
G. Campbell
J. Garner
T. Reese
W. Tortorello
D. Wendt
M. J. Velotta

16-3



Since 1888

FARMERS ALLIANCE MUTUAL INSURANCE COMPANY

1122 N. MAIN

P.O. BOX 1401

McPHERSON, KANSAS 67460

(316) 241-2200

February 20, 1990

TO: HOUSE INSURANCE COMMITTEE

SUBJECT: HOUSE BILL 2944

Mr. Chairman and members of the committee, thank you for this opportunity to make a statement concerning House Bill 2944. My name is Rick Wilborn, Vice-President, Government Affairs, with the Alliance Insurance Companies, McPherson, Kansas.

The Alliance Insurance Companies (parent company: Farmers Alliance Mutual Insurance Company) is a regional company represented by approximately 850 independent agents located in an 11-state area.

We are very much opposed to House Bill 2944 for the following reasons.

We see this bill as an intrusion into the business relationship between insurer and agent. The company/agency relationship is built upon a number of factors: production, ethics, product knowledge, financial stability and loss ratio experience.

We at the Alliance Companies offer to our agent a profit incentive over and above the standard commission. We call this profit incentive a contingency plan. The contingency plan is a premium commission system rewarding agents who write profitable business. However, if an agency does not produce profitably over time, then we feel it's our prerogative to reach a business decision in exercising the terms of the contract and terminating our relationship with the agent.

TRUST YOUR FUTURE TO A PROVEN PAST.

ALLIANCE COMPANIES

Attachment 17

Farmers Alliance Mutual Insurance Co.

Alliance Insurance Co., Inc.

Alliance Indemnity Co.

Alliance Administrators, Inc.

Blakely Crop Hail, Inc.

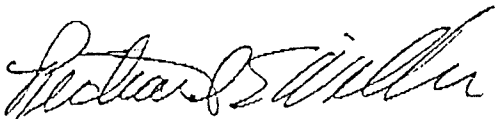
North Central Crop Insurance, Inc.

P.2

FEB 20 11:48

If you will note on line 35; subparagraph 2; Section D, an exclusive agent is defined as an agent who writes 80% or more of such agent's gross annual business for one company or any or all of its subsidiaries and is not in the direct employ of the company. This affects a very small percent of our agents, however there are agents in rural communities only with the Alliance Insurance Companies. We market our product through the American Agency System, commonly known as independent agents. We have approximately 30 agencies that would come under this definition.

With the aforementioned reasons, we respectfully request the House Insurance Committee to report House Bill 2944 unfavorable.



RICHARD E. WILBORN, CPCU : VICE-PRESIDENT
GOVERNMENT AFFAIRS

M E M O R A N D U M

TO : Dale Sprague
House Insurance Committee

FROM : William W. Sneed
State Farm Insurance Company

DATE : February 20, 1990

RE : House Bill 2944

Mr. Chairman and Members of the House Insurance Committee, my name is Bill Sneed and I represent State Farm Insurance Company. House Bill 2944 is an attempt to regulate contracts between insurance companies and their agents relative to cancellation of such contracts.

Although my client understands the legislature's supervision on insurance-related matters, it is our opinion that such contracts are private in nature, and thus the terms of said contracts should be left to the contracting parties.

Additionally, my client has some concern as to the effect of paragraph C. This paragraph, as written, would require my client to pay all commissions "earned" by an agent, prior to or after termination. Our first concern is what factors determined "earned" commissions.

Next, my client provides for payment of service compensation, up front, with the contractual understanding that should policies cancel, the agent will refund the unearned portion of the service compensation. Since we are uncertain as to the definition

of "earned," it is uncertain if my client would be able to continue this service.

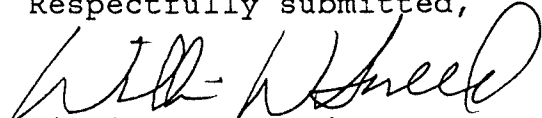
Also, our contracts provide for first lien against the income owed to the agent should the agent not account for all of the company's monies in the possession of the agent.

Finally, it would appear that this bill, if passed, would impose a prohibition on my client's current practice relative to Trainee Agents. Our Trainee Agent Agreement provides that no compensation of any kind shall be due, or become due, after termination. During an agent's training, my client pays a "salary" during the course of the training, and the trainee receives no funds from commissions off the book of business that the agent writes as a trainee. If the agent successfully completes the trainee program, the commissions generated on the renewal of the book of business written as a trainee will be credited to the agent. However, if the agent is unsuccessful in the trainee program, i.e., is terminated, no compensation of any kind becomes due to the agent. It is my client's position that its trainee program is adequately fair to the trainee, and if H.B. 2944 is successfully passed, it may force my client into a different form of trainee program that potentially would not be as favorable to trainee agents.

Thus, based upon our position that such contracts are private in nature, we must respectfully oppose H.B. 2944, and would respectfully request that it receive unfavorable treatment by the Committee.

Again, on behalf of my client, I appreciate the opportunity to testify on this bill, and if there are any questions, please feel free to contact me.

Respectfully submitted,



William W. Sneed