

Approved: March 20, 2003  
Date

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE.

The meeting was called to order by Chairperson Patricia Barbieri-Lightner at 3:30 on February 11, 2003 in Room 527-S of the Capitol.

All members were present.

Committee staff present: Bill Wolff, Legislative Research  
Ken Wilke, Revisor of Statutes  
Renaë Hansen, Secretary

Conferees appearing before the committee: **Representative Mario Goico**, Kansas House of Representatives, 100<sup>th</sup> District  
**Chief Jeff Hudson**, Shawnee Kansas Fire Marshal, Kansas State Association of Fire Chiefs, & Johnson County Fire Chiefs Association  
**Bill Yanek**, Director of Governmental relations, Kansas Association of Realtors,  
**Jeffery Bottenburg**, Legislative counsel, State Farm Insurance Companies  
**Dan McLaughlin**, State Fire Marshals office  
**Tom Sealy**, representative of Cedar Shake and Shingle Bureau  
**Dallas Kalloway**, Watkins Sawmills  
**Bill Sneed**, Legislative council, The State Farm Insurance Companies  
**Amy Valenciano**, Public affairs specialist, State Farm Insurance

Others attending: 21 total, some of whom signed the register.

Hearing on:

**HB 2023**- Restrictive covenants, wood shingles on roofs.

Proponents:

Representative Mario Goico, Kansas House of Representatives, 100<sup>th</sup> district, (Attachment #1), sponsor of the bill, explained why this bill was drafted, relaying a personal story.

Questions were posed by: Representatives Ray Cox, regarding state zoning of cities and Scott Schwab, regarding the wording of the bill.

Chief Jeff Hudson, Kansas State Association of Fire Chiefs, and Johnson County Fire Chiefs Association, (attachment #2), giving the residents of Kansas a choice about their safety, and the investments they have in their homes.

Questions were posed by: Representatives Ray Cox, regarding a city ordinance pertaining to this issue, and Nancy Kirk regarding the retro activeness of that said ordinance.

Bill Yanek, Director of Governmental relations, Kansas Association of Realtors, (attachment #3), believes the bill is positive, and agrees that it should be passed out favorably.

Jeffery Bottenburg, Legislative counsel, State Farm Insurance Companies, (attachment #4), in support of the bill, presented testimony that showed studies done on roof shingles and told of State Farms' insurance discount for home owners using roofing material other than shake shingles.

Support giving homeowners the right to choice that best fit their aesthetic needs and their right to safety.

Questions were posed by: Representatives Ray Cox regarding other States and their passage of similar legislation, and Bob Grant regarding policy price difference for the home owners using alternative shingles.

Dan McGlaughlin, State Fire Marshals office, representing Karl McNorton, Director, Fire Prevention Division, (attachment #5), presented statistics of house fires with wood shingles in the state of Kansas from 1995-2002.

Written testimony (attachment #6) was presented by Jim Keating, President, Kansas State Firefighters Association, representing The Kansas Fire Service Alliance.

Representative Goico commented that the fiscal note showed that there would be no fiscal affect.

Opponents:

Tom Sealy, representative of Cedar Shake and Shingle Bureau, commented that there are treated shingles which do meet the four class requirements for fire retardant. In Texas, they are charged 30% more for having the shake shingles but receive a discount of 34% because the shake shingles create an impact resistance factor, thus netting a 4% decrease. They do meet Underwriters Laboratory 790 testing and National Fire Protectors Association 256. Most of the deed restrictions they encounter in Kansas do allow for some other choice for shingles besides wood. In Texas, they have to allow choices, but can put restrictions and not allow certain kinds of shingles.

Dallas Kalloway, Watkins Sawmills, largest manufacturer of cedar shakes and shingles, commented that 97% of all fires start inside the house. If you see any news articles where people die, they die from toxic fumes, not from non-toxic wood, treated and untreated. People have the wood in their covenants because it is aesthetically pleasing. Properly fire treated shake shingles will not burn.

Questions and comments were posed by: Representatives Patricia Barbieri-Lightner, David Huff, and Bonnie Sharp.

The hearing on **HB 2023** was closed by Chair Barbieri-Lightner.

Hearing on:

**HB2071**- Insurance policies; issuance in a foreign language.

Proponents:

Bill Sneed, Legislative Council, The State Farm Insurance Companies, (attachment #7), this is a bill that State Farm is pushing nationwide to set some specific guidelines regarding foreign language of Insurance Policies. This bill and the nationwide push would set down some similar guidelines nationally, for companies such as State Farm that conduct business throughout the nation. In addition, a balloon amendment was included in his testimony, deleting advertising material, including the word application, including explanatory materials on line 6, and adjusting language throughout the bill that corresponds to those changes.

Questions were posed by: Representatives Stephanie Sharp, Patricia Barbieri-Lightner, and Scott Schwab.

Amy Valenciano, Public affairs specialist, State Farm Insurance, (attachment #8), related statistics of the rate of growth nationally and statewide in the non English speaking households. This bill would allow companies to present insurance information to people in their language of origin with the English language taking precedence for the application of the contract. She urged committee members to pass the bill out of committee favorably.

Questions and comments were posed by: Representatives Stephanie Sharp, David Huff, Scott Schwab,

Mario Goico, Joe Humerickhouse, and Bonnie Sharp.

No Opponents were present.

Chair Barbieri-Lightner closed the hearing on HB2071.

The committee entertained working HB2023, and HB2071 but it was decided to wait until the language had been corrected before working them.

Meeting adjourned.

Next meeting scheduled for February 13, 2003, room 526-S, 3:30 p.m.

# HOUSE INSURANCE COMMITTEE GUEST LIST

DATE: February 11, 2003

NAME	REPRESENTING
Bill Sneed	State Farm
Amy Valenciano	State Farm
James Woydziak	Kansas Professional Fire Chiefs
Donald J. Francis	Manhattan Fire Dept.
Dan McLaughlin	KS State Fire Marshal Office
JEFF HUDSON	KS STATE ASSOC OF FIRE CHIEFS
" "	Johnson Co. Fire Chiefs Assn
JOHN MATTOX	SHAWNEE FIRE DEPT.
Jeff Bottenberg	State Farm
Pat Lehman	KFSA
Robert Chomomanski	KTLA
Jenny Wells	KID
J. Lynn Dunten	KID
Darin Johnson	HEP/MP
BILL YANEK	Ks Assn of REALTORS
Kevin Davis	Am Family Ins.
Theresa Lopez	Federico Consulting
LARRY MAGILL	KAIA
Ramie Ann Lower	Alliance of American Insurers





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MEMBER: FINANCIAL INSTITUTIONS  
HEALTH AND HUMAN  
SERVICES  
INSURANCE  
TAXATION  
KANSAS SECURITY

I stand before you in support of HB 2023.

I observed my house burning at 3:30 A.M. on November 11. As the fire department was pouring water on the shake shingles, the fire continued to expand. When time came to rebuild I found out that we had restricted covenants that demand that the new roof also be wood shake shingles.

Our homeowners association have been trying to change the covenant for about a year, but it requires 75% of the homeowners to be present. This is an almost impossible task.

Many insurance companies are no longer covering shake shingles, they have a large depreciated value, or a surcharge.

Wood shake shingles are kindling after about 2 years. They also curl up and are subject to being ripped off by our Kansas wind.

At the present time there are numerous composite material alternatives that look exactly the same, they are lighter, cheaper, do not burn, and last longer. (40 years versus 15 years)

I'll be glad to take some questions.

House Insurance  
Date: 2/11/03  
Attachment # 1

2/11/03  
Attch#1

**House Bill 2032**  
**Testimony of Jeff Hudson**  
**Kansas State Association of Fire Chiefs**  
**And**  
**Johnson County Fire Chiefs Association**

**The Kansas State Association of Fire Chiefs (KSAFC) and the Johnson County Fire Chief's Association (JCFCA) appears today in support of House Bill 2023 related to making restrictive covenants that require the use of wood shake or similar material in the roof of any building unenforceable.**

My name is Jeff Hudson, and I am the Fire Chief in the City of Shawnee Kansas. Let me begin by expressing my thanks for the opportunity to appear before you today in support of House Bill 2023. I am both honored and humbled to be asked to provide this testimony to you today on behalf of my peers, the Kansas State Association of Fire Chief's (KSAFC), and the Johnson County Fire Chief's Association (JCFCA).

The Fire Service throughout the State of Kansas is very interested in, and believes in, this very important piece of legislation for obvious reasons. It has long been a known fact by the Kansas Fire Service, that there is a significantly increased risk to life safety and property damage from a fire involving wood roof coverings, such as wood shakes and wood shingles, than there is from less combustibile alternative roof covering materials.

This is in no way to say that we believe that wood roof coverings are responsible for fires starting, or that we believe that they are ticking time bombs waiting to go off. The simple fact is that they are wood and wood burns.

House Insurance  
Date: 2/11/03  
Attachment # 2

2023  
2/11/03  
# 2

I was discussing this issue the other day with a representative of a wood roof covering association here in Kansas, and I was asked if I could support my opinion on this issue with either a written study, or some other type of data. My response, when asked that question, was this. I am certain that somewhere out there that that data exists, or those studies have been authored, however, my position on this issue comes from neither any collected data, or from a formally prepared study. My steadfast position on this issue is a result of my twenty-seven years in the fire service, responding to and fighting roof fires in the community where I live and work. My position on this issue is not unlike that of other Fire Service Professionals throughout the State of Kansas, of whom I represent today.

The Fire Chiefs from throughout the State of Kansas are not before you today, to give testimony to you, or to leave you with the impression, that we feel that wood roof products should be not be allowed. Instead, we support House Bill 2023 because, if passed, it would give the residents in our State, the people whom we protect, a choice about their own safety, the safety of their families, and the safety of the property in which they have so much invested.

The members of the KSAFC and the JCFCFA believe in, and support, House Bill 2023. We truly believe that if passed, the residents and homeowners in the state of Kansas would safely benefit from the choice provided to them by this legislation.

Jeffery L. Hudson

Kansas State Association of Fire Chiefs

Johnson County Fire Chief's Association



TO: HOUSE INSURANCE COMMITTEE  
FROM: BILL YANEK, KAR DIRECTOR OF GOVERNMENTAL RELATIONS  
DATE: February 11, 2003  
SUBJECT: House Bill 2023 – Restrictive covenants, wood shingles on roofs

Thank you for the opportunity to testify. On behalf of the Kansas Association of REALTORS®, I appear today to support House Bill 2023.

Restrictive covenants are private agreements in a deed or lease that restrict the use and occupancy of real property. Usually, these restrictions take the form of lot size, building lines, architectural styles, or uses to which property may be put.

Covenants restricting building materials are common and neighborhood associations enforce such restrictions to maintain building appearance standards that associations deem acceptable. When comparable materials can be used to achieve the purpose of the restriction, while adding to the safety of the dwelling, those alternatives should be deemed appropriate.

We urge the committee to pass favorably HB 2023.

House Insurance  
Date: 2/11/03  
Attachment # 3

#3  
2023  
2/11/03



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## Memorandum

**TO:** THE HONORABLE PATRICIA BARBIERI-LIGHTNER, CHAIR  
HOUSE INSURANCE COMMITTEE

**FROM:** JEFFERY S. BOTTENBERG, LEGISLATIVE COUNSEL  
THE STATE FARM INSURANCE COMPANIES

**RE:** HB 2023

**DATE:** FEBRUARY 11, 2003

Madam Chair, Members of the Committee: My name is Jeff Bottenberg and I represent State Farm Insurance Companies ("State Farm"). We appreciate the opportunity to appear in support of HB 2023, which prohibits the use of restrictive covenants that require the exclusive use of wood shake or similar material for roofs. State Farm is the largest insurer of homes in the United States and Kansas, insuring one out of every four homes in the U.S.

State Farm supports legislation that reduces the use of wood shingles and shakes. In these days of rising claim costs, an effective way to reduce the risk of loss from fire and hail is to replace wood shingle roofs with roofs made of more sturdy materials. Unfortunately some of our policyholders are unable to use this effective loss prevention and reduction item due to restrictive covenants

The use of wood shingle and wood shake roofs continue to produce higher loss claims than all other roofing products combined (asphalt, fiberglass, tile, slate, composites and metals).

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House Insurance  
Date: 2/11/03  
Attachment # 4

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Telephone: (785) 233-1446  
Fax: (785) 233-1939

2023 2/11/03 #4

Due to such high loss claims, State Farm offers homeowner policy discounts for the use of certain roof products. The discount is based in part by a roof's impact resistance as measured by Underwriters' Laboratory UL2218 test, which measures a roofing product's ability to withstand hail damage. The ratings range from Class 1 to Class 4 (greatest impact resistance).

Roofing material is also rated on its fire resistance, and such ratings range from Class A (effective against severer fire exposure) to Class C (least effective). Many wood shingles and shakes have a Class C rating or no rating at all, while most fiberglass shingles have a Class A rating.. For more detailed information on roof types and ratings, please visit the State Farm website at [www.statefarm.com/consumer/roof.htm](http://www.statefarm.com/consumer/roof.htm).

Replacing wood shingles with a more sturdy and fire resistant material is an effective mechanism to reduce the risk of loss from fire and hail. HB 2023 allows homeowners to use a proven mitigation loss tool while retaining the flavor of the neighborhood. For the above reasons, State Farm strongly supports HB 2023. Please do not hesitate to contact me if you have any questions regarding this or any other matter.

Respectfully Submitted,



Jeff Bottenberg

JSB  
Enclosures



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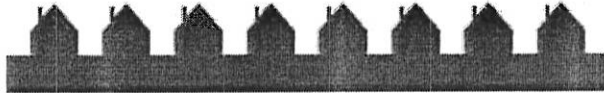
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### What are the Options?

There are a number of things to consider when selecting a new roof system. Of course, cost and durability head the list, but aesthetics and architectural style are important, too. The right roof system is the one that balances these four considerations.

**Asphalt shingles** -- which possess an overwhelming share of the U.S. residential roofing market -- can be reinforced with either organic or fiberglass materials. Although shingles reinforced with organic felts have been around much longer, fiberglass-reinforced products now dominate the market.

**Organic shingles** consist of a cellulose-fiber (i.e., wood) base that is saturated with asphalt and coated with colored mineral granules. To fight fungus growth in warm, wet climates, they are available with special algicide granules.

**Fiberglass shingles** consist of a fiberglass mat, top-and-bottom layers of asphalt, and mineral granules. Typically, a fiberglass mat offers greater durability, but its manufacture is important.

The fire resistance of asphalt shingles, like most other roofing materials, is categorized by Underwriters Laboratories Inc. (UL) Class A, B, or C. Class A is the most fire-resistant, while Classes B and C have less fire resistance. Generally, most fiberglass shingles have Class A fire ratings, and most organic shingles have Class C ratings. UL Class A fire ratings are available for certain products that incorporate a factory-applied, fire-resistant treatment.

A shingle's reinforcement will have little effect on its appearance. Both organic and fiberglass products are available in laminated (architectural) grades that offer a textured appearance. Zinc or copper-coated ceramic granules also can be applied to either organic or fiberglass products to protect against algae attack, a common problem in hot, humid climates. Both types of shingles also are available in a variety of colors.

**Wood shingles and shakes** are made from cedar, redwood, southern pine, and other woods. Shingles are machine-sawn; shakes are hand-hewn and rougher looking. Their natural look is popular in California, the Northwest, and parts of the Midwest. A point to consider: Some local building codes limit their use because of concerns about fire resistance. Many wood shingles and shakes only have a UL Class C fire rating (or no rating at all).

**Tile** -- clay or concrete -- is a durable but fairly expensive roofing material. "Mission-style" and "Spanish" round-topped tiles are used widely in the Southwest and Florida, and flat styles also are available to create French and English looks. Tile is available in a variety of colors and finishes. **Note:** Tile is heavy. If you are replacing another type of roof system with tile, you will need to verify that the structure will support the load.

**Slate** is quarried in places such as Vermont, New York, Pennsylvania, Virginia, and Canada. It comes in different colors and grades, depending on its origin. Considered virtually indestructible, it is, however, more expensive than other roofing materials. In addition, its application requires skill and experience. Many old homes in the Northeast are still protected by this long-lasting roofing material.

**Metal**, primarily thought of as a commercial roofing material, has been found to be an attractive roofing alternative for homeowners. There are a variety of metal shingles intended to simulate traditional roof coverings, such as wood shakes, shingles, and tile. Apart from metal roofing's



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## Wood shakes or shingles

Most wood shakes and wood shingles are made from the western red cedar tree. There are basically three different types of products: hand-split shakes, taper-sawn shakes and wood shingles.

Each product is graded according to the cut and number of defects. Wood shingles are thinner than shakes (3/8 inch) and come in Grades 1, 2 and 3.

Hand-split shakes have two grades: Premium (all edge grain) and Grade 1 (up to 20 percent of the shakes can be flat grain, which is more susceptible to curling).

Taper-sawn shakes are as thick as hand-split shakes and are sawn smooth on both sides. They come in three grades: Premium and Grades 1 and 2.

Wood roofs may be cleaned periodically to remove tree debris, moss or fungus. If professionals use a high-pressure washer, care must be taken so the roof is not damaged. Shingles may also be treated with wood preservatives to limit weathering effects of moisture and retard growth of molds, moss and fungi. They may also be treated with a fire retardant to reduce the chance of ignition or fire spread. Treatments should be reapplied periodically to remain effective.

- Typical hail warranty: None
- Typical material defects warranty: 0 to 30 years
- UL fire rating: See note
- Average dry weight per square: 160 to 320 lbs.
- Average wet weight per square: 320 to 560 lbs.

Note: Although some pressured-treated cedar shakes and shingles may attain a UL fire rating, untreated wood shakes and shingles typically have no fire rating.



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**Modified asphalt composition shingles**

Modified asphalt composition shingles use the synthetic rubber modifier Styrene-Butadiene-Styrene (SBS) or Atactic Polypropylene (APP). The SBS or APP is blended into the asphalt to enhance the flexibility, durability, crack resistance, impact resistance, and resistance to ultraviolet light.

Modified asphalt composition shingle products are available in standard three-tab style or architectural laminated style for a more textured or dimensional appearance.

These modified products may be more expensive than standard asphalt composition shingle products, but the benefits of increased impact resistance and durability could offset the initial cost over the life of the roof. Several modified asphalt composition shingle products currently listed by UL or other certified laboratories receive a Class 4 impact-resistance rating.

- Typical wind warranty: Varies
- Typical hail warranty: None
- Typical material defects warranty: 30 years to "Lifetime" (laminated)
- UL fire ratings: A
- Average weight per square: 230 to 280 lbs.



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### Metal roofs

There is a variety of metal roofing products; many are intended to simulate shingles, shakes, slate and tile. Some of the materials used are galvanized steel, stainless steel, galvalume, aluminized steel, aluminum, copper, terne metal and zinc. They are produced as individual pieces or in panels. Material thickness and coatings vary greatly. A variety of finish types and colors are also available.

Typical hail warranty: Varies  
Typical material defects warranty: Varies  
UL fire ratings: A, B or C  
Average weight per square: 40 to 250 lbs.



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## Testimony on House Bill 2023 Restrictive Covenants of wood roof shingles House Committee on Insurance

Date: February 11, 2003

By: Karl W McNorton, Director  
Fire Prevention Division  
Kansas State Fire Marshal's Office

The Kansas State Fire Marshal's Office was asked by Representative Goico to provide testimony regarding the incidences of fires involving wood roof shingles. We accessed our data base for the past seven years (1995 through 2002) and accounted for 162 incidents where the roof with a wood covering was the area of fire origin. This is 7% of the total residential structure fires (22,955) during this period. These fires accounted for nearly 5 million dollars in property loss, 13 firefighter injuries and 1 civilian injury. No deaths were reported.

The ignition sources for fires of this type vary from exposure to other fires to faulty installation of decorative lighting. This type of roof covering is susceptible to fire due to the nature of the material it is composed of and is subject to degradation by Kansas extreme weather conditions. There are fire retardant chemicals that can be applied to the roof covering to reduce the incidence of ignition to these materials however these chemicals generally have to be applied during ideal conditions and almost always reapplied on an annual basis to maintain its resistance to fire.

Thank you for your time and attention.

House Insurance  
Date: 2/11/03  
Attachment # 5

*"Where fire safety is a way of life."*

Summary of Residential Wood Shingled Roof Fires in Kansas 1995-2002

**Residential Roof Fires Summary**

<u>Year</u>	<u>#Fires</u>	<u>FFInj</u>	<u>CivInj</u>	<u>FFDeath</u>	<u>CivDeath</u>	<u>\$Loss</u>
1995	21	3	0	0	0	\$ 781,800
1996	21	0	0	0	0	\$ 216,869
1997	20	1	1	0	0	\$ 201,500
1998	18	8	0	0	0	\$ 795,750
1999	29	0	0	0	0	\$ 684,500
2000	15	1	0	0	0	\$1,019,500
2001	18	0	0	0	0	\$ 499,000
2002	20	0	0	0	0	\$ 744,780
Totals	162	13	1	0	0	\$4,943,699

**Total Residential Fires Summary**

<u>Year</u>	<u>#Fire</u>	<u>FFInj</u>	<u>CivInj</u>	<u>FFDeath</u>	<u>CivDeath</u>	<u>\$Loss</u>
1995	3,194	113	137	1	33	\$ 34,096,788
1996	3,478	136	135	0	32	\$ 43,468,155
1997	3,022	95	118	0	19	\$ 37,088,467
1998	2,610	109	114	0	29	\$ 25,944,394
1999	2,550	72	130	0	17	\$ 29,004,332
2000	3,046	79	116	0	35	\$ 35,809,193
2001	2,870	90	116	0	27	\$ 40,735,130
2002	2,185	44	81	0	21	\$ 30,537,374
Totals	22,955	738	947	1	213	\$276,683,833

Source: 1995 – 2002 Kansas Fire Incident Reporting System

Roof fire totals based on Area of Fire Origin equals roof surface or roof area, type material ignited equals wood, and form of material ignited equals roof surface

# Kansas Fire Service Alliance

☪ Kansas State Fire Fighters Association

☪ Kansas State Association of Fire Chiefs

☪ Kansas Professional Fire Chiefs Association

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## TESTIMONY

Reference House Bill 2023

Presented to

COMMITTEE ON INSURANCE

Presented by

JIM KEATING, PRESIDENT  
KANSAS STATE FIREFIGHTERS ASSOCIATION

Representing  
THE KANSAS FIRE SERVICE ALLIANCE

House Insurance  
Date: 2/11/03  
Attachment # 6

I provide this testimony on behalf of the Kansas State FireFighters Association, Kansas State Association of Fire Chiefs, and the Kansas State Association of Professional Fire Chiefs, which constitutes the membership of the Kansas Fire Service Alliance. The Alliance jointly represents over 650 Kansas fire departments.

The Kansas Fire Service Alliance strongly supports House Bill 2023. We understand that developers specify the uniform appearance given by the use of wood / shake shingles often in quality housing projects, however, many products exist today that will give a similar appearance and at the same time provide a fire safe roof through its life.

While wood / shake shingles are normally treated with a fire retardant material, the material will break down over time due to sun and weather conditions, thus leaving a very dry, brittle condition which can easily catch fire from a simple spark from a fire place flue, or a variety of other causes.

Covenants such as noted in this bill are often found in housing projects with close density construction, thus if one roof catches on fire, dependent on the weather conditions, adjoining roofs can easily become involved, creating a difficult extinguishing effort for a fire department. A homeowner should have a choice to specify a product that is safe and will remain safe for its life, no matter where the home is built.

Again, the Kansas Fire Service Alliance stands in strong support of this bill as it is a matter of life safety. We thank you for time in consideration of this bill.



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## Memorandum

**TO:** THE HONORABLE PATRICIA BARIERI-LIGHTNER, CHAIR  
HOUSE INSURANCE COMMITTEE

**FROM:** WILLIAM W. SNEED, LEGISLATIVE COUNSEL  
THE STATE FARM INSURANCE COMPANIES

**RE:** HOUSE BILL 2071

**DATE:** FEBRUARY 10, 2003

Madame Chair, Members of the Committee: My name is Bill Sneed and I represent State Farm Insurance Companies ("State Farm"). We appreciate the opportunity to appear in support of House Bill 2071. As you are aware, we requested the introduction of HB 2071, a bill that allows insurers to deliver foreign language insurance policies and other materials to Kansas policyholders.

State Farm is the largest insurer of homes and autos in the United States and in Kansas. State Farm insures one out of every five cars and one out of every four homes, in the United States. With the explosive growth of Kansans who speak other languages other than English within the home and consider such foreign language as their first language, my client has started a nationwide campaign to introduce similar proposals as found in HB 2071, in an effort to provide the insurance buying public additional avenues in providing information to the insured.

The reason for the bill introduction in Kansas as well as other states are as follows:

First, the general principle that unless specifically authorized by statute, insurance companies are severely limited as to what they can or cannot provide in the material that they present to their insureds;

Second, by allowing insurers to utilize a foreign language on a voluntary basis, the marketplace will be utilized as to how quickly and to what extent this type of material will be used in the insurance marketplace. Neither insurance companies nor state regulators are totally equipped for mandatory requirement of such foreign language policies. By leaving it voluntary, the industry and state regulators can move together in an effort to provide this information to the insuring public;

Third, creating a statutory basis for foreign language materials also provides an opportunity to statutorily provide protection for the consumers by making a knowing misrepresentation a violation of the Kansas Unfair Trade Practices Law, currently on the books.

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House Insurance  
Date: 2/11/03  
Attachment # 7

2071  
2/11/03 7

As stated earlier, State Farm strongly supports HB 2071. In the course of our discussions with various interested parties and in collaboration with the Revisor's office, we do have a few technical amendments that we would like the committee consider, when it works HB 2071. Attached to my testimony is a balloon of our proposed amendments.

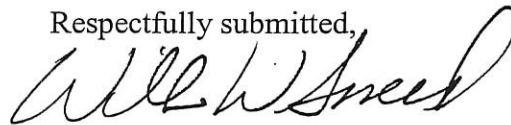
In a nutshell, the amendments are a way to include advertising material in the statute but not included in the definition of "contract of insurance or indemnity". This is being done inasmuch as although the Department has regulatory approval over the contract, rider, endorsement, and application, they do not have a similar authority relative to explanatory materials, including advertisement. Although at any time the Department may review advertisement as a part of a review of the Unfair Claims Practices Act, it is not a part of the approval process that the Department's Property and Casualty Division does for various policy filings.

We believe the amendments to be technical and would respectfully request the Committee include them in the bill.

We believe HB 2071 provides an opportunity for Kansas to be a leader in this growing area of insurance law. It is in this fashion that we respectfully request that the Committee act favorably on HB 2071.

If you have any questions, please feel free to contact me.

Respectfully submitted,



William W. Sneed

WWS:pmk  
Attachment

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1 the laws of other states governing rate filings and policy or contract forms  
 2 for personal and commercial, including large commercial risks. The study  
 3 shall also identify recent trends in regulation and the potential impact on  
 4 consumers, carriers and agents. The commissioner of insurance shall allow  
 5 any insurance company authorized to transact business in this state to  
 6 deliver to any person in this state any contract of insurance or indemnity  
 7 written in any language other than the English language under the fol-  
 8 lowing conditions:

9 (1) ~~The insured, applicant for insurance or any other person receives~~  
 10 a copy of the same contract of insurance or indemnity written in the  
 11 English language;

12 (2) ~~the English language version of the contract for insurance or in-~~  
 13 ~~demnity delivered shall be the controlling version; and~~

14 (3) any contract of insurance or indemnity written in any language  
 15 other than English shall contain a disclosure statement in 10 point bold-  
 16 face type, printed in both the English language and the other language  
 17 used, stating the English version of the contract of insurance or indemnity  
 18 is the official or controlling version and that the version is written in any  
 19 language other than English is furnished for informational purposes only.

20 (c) All contracts of insurance or indemnity that are required to be  
 21 filed with the commissioner of insurance shall be accompanied by any  
 22 version of such contract of insurance or indemnity written in any language  
 23 other than the English language.

24 (d) Any insurance company or insurer, including any agent or em-  
 25 ployee thereof, who knowingly misrepresents the content of a contract of  
 26 insurance or indemnity written in a language other than the English lan-  
 27 guage shall be deemed to have violated the unfair trade practice law.

28 (e) For the purposes of this section, the term "contract of insurance  
 29 or indemnity" shall include any rider, endorsement or ~~advertising mate-~~  
 30 ~~rial pertaining to such contract of insurance or indemnity.~~

31 Sec. 2. K.S.A. 2002 Supp. 40-2404 is hereby amended to read as  
 32 follows: 40-2404. The following are hereby defined as unfair methods of  
 33 competition and unfair or deceptive acts or practices in the business of  
 34 insurance:

35 (1) *Misrepresentations and false advertising of insurance policies.*  
 36 Making, issuing, circulating or causing to be made, issued or circulated,  
 37 any estimate, illustration, circular, statement, sales presentation, omission  
 38 or comparison which:

39 (a) Misrepresents the benefits, advantages, conditions or terms of any  
 40 insurance policy;

41 (b) misrepresents the dividends or share of the surplus to be received  
 42 on any insurance policy;

43 (c) makes any false or misleading statements as to the dividends or

[ , including any explanatory materials,

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HOUSE INSURANCE COMMITTEE  
TESTIMONY: FEBRUARY 11, 2003

My name is Amy Valenciano and I am a Public Affairs Specialist with State Farm Insurance in Kansas. I am an officer for the Wichita Hispanic Chamber of Commerce and am involved in PALA, Political Alliance for Latino Advancement.

State Farm is the largest insurer of homes and autos in the United States and Kansas. We insure approximately one out of every five cars and one out of every four homes in America. State Farm appreciates the opportunity to speak with you today on House Bill 2071. This bill allows insurers to provide foreign language insurance policies and other associated material to Kansas policyholders.

During the 2000 United States Census 12.5% of respondents identified themselves as Hispanic and 3.6% as Asian. Hispanics and Asians are the largest growing population segments in the United States. This rate of growth is reflected in Kansas. From 1990 to 2000 the Hispanic population in Kansas grew 108% and the Asian by 47%.

It is anticipated that this rate of growth will continue. According to the 2000 Census approximately 9% of all Kansans spoke a language other than English at home. Nationwide 74% of US born Hispanics use Spanish at home and 59% consider Spanish as their first language.

For the majority of the Hispanic population English is a second language. Buying insurance is one of the most important financial decisions a family makes. Providing this information to consumers in their primary language is a service Kansans need and want.

This bill would allow insurers to deliver policies, endorsements and other associated material to applicants and policyholders in a foreign language. The insurer would be required to file the foreign language version with the Department of Insurance and to provide an English version to the consumer. The English language version would take precedence. This would preserve contract interpretation that has been established by the courts, the legislature and the Insurance Department over a number of years. However, any insurer who knowingly misrepresented the content of these items in their

foreign language version would be subject to the penalties provided in the unfair trade practices section of the Kansas Code.

We feel this is an important service we can offer a growing segment of Kansas and of our policyholder base and as such we urge you to support this bill.