

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairperson Ruth Teichman at 9:30 a.m. on February 4, 2004 in Room 234-N of the Capitol.

All members were present except:

Senator David Adkins- excused

Committee staff present:

Bill Wolff, Legislative Research  
Ken Wilke, Office of the Revisor of Statutes  
Nancy Shaughnessy, Committee Secretary

Conferees appearing before the committee:

David Hanson-Kansas Insurance Association  
Richard Willborn-Farmers Alliance  
Lee Wright, Farmer's Insurance  
Bill Sneed-State Farm Insurance  
Brad Smoot-AIA  
Jerry Wells, Kansas Insurance Department

Others attending:

See Attached List.

**Bill Introduction:**

Kevin Glendening, Deputy Commissioner, Office of the State Banking Commissioner requested an introduction of a bill to amend Article 11 of Chapter 50 of the Kansas statutes pertaining to Credit Services Organizations. (Attachment 1) This bill would expand the definition of a CSO to include those entities who offer debt management services to consumers, increase our ability to supervise those activities and provide additional consumer protection. Motion to introduce the bill by Senator Barnett. No second. Motion passed.

**Bill Hearings:**

**SB 339--Insurance; prohibiting loss of coverage of homeowners insurance for filing one weather related claim.**

Jerry Wells of the Kansas Insurance Department testified as a proponent. (Attachment 2) The essence of the bill is that it will be unlawful for any insurance carrier to non-renew based on one very narrow category. If it is shown that any carrier has nonrenewed for the sole reason that they have had a claim for a single weather related incident (tornado or otherwise) then that is not a sufficient reason to cancel or nonrenew the policy. The KID feels strongly that this matter goes to the heart of what insurance is all about and that it is unfair and unacceptable for this to occur.

Senator Corbin wished to know if any reason was given to the claimant regarding the policy cancellation. Senator Barnett inquired whether or not any other states had passed similar kind of legislation and will rates be affected by a chance such as this? Mr. Wells indicated that there are carriers who will use such an excuse and try to raise rates. Mr. Wells is unaware of any legislation similar to this in place in the Midwest. Senator Steinger wished to know who and how "weather-related" would be defined? Mr. Wells indicated that it would surround definitions like unanticipated or no forewarning and definitions would be fine tuned and included in rules and regulations.

David Hanson, Kansas Property & Casualty Insurers, stated that it's always difficult to be in opposition to the Insurance Commissioner.. His group feels that when legislation is proposed which will interrupt providing the most affordable rates, they have a responsibility to let you know how it will impact them. This association has expressed concerns about similar legislation that was proposed in 1996, 1997, 1998, and 2000. This is not an industry practice and is a result of 13 complaints primarily involving one company. They have concerns about what this legislation will do to the market. (Attachment 3) Mr. Hanson also provided written testimony from Ann Weber, Regional Manager (Attachment 4), Richard Turano, Regional Counsel (Attachment 5), in support of opposition to **SB339**.

Rick Willborn, Farmer's Alliance Mutual Insurance Company, which is a domestic company, meaning

## CONTINUATION SHEET

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE at 9:30 a.m. on February 4, 2004 in Room 234-N of the Capitol.

their home office is in Kansas. The way the legislation is currently written it restricts the ability of the insurance company to book business or sever a relationship with a client when necessary. There are many complicated issues that become dicey. It is not just the single loss issue. Mr. Willborn indicated that the industry would be more than happy to work with the Insurance Department to craft some language that would be palatable to everyone and also acceptable for consumers. As the legislation is written now they are opposed. (Attachment 6)

Lee Wright, Farmers, Insurance Company, Opponent stated that Farmer's has no problem with the language in Sec.2 if there intent is to protect a policyholder from losing a claims loss and have a favorable claims history. Farmer's objects if the intention is to deny their ability to non-renew an insured that doesn't reasonably maintain their property, files many claims and prefers using a insurance as a maintenance policy. If there most recent claim happens to result from an act of nature, are insurance companies then precluded from taking underwriting action on that insured despite their poor loss history and morale risk?

They have a serious concern about how an "act of nature" is defined. (Attachment 7)

Bill Sneed, State Farm Insurance Company appears as an opponent and stated, as the bill is drafted , it is very, very suspect. For example, the Department used words like "sole reason" and we do not find those words in the legislation. History has indicated that the Department and the industry have different interruptions on what "sole" means. In the State of Kansas it is relatively easy to procure insurance. If you legislate barriers for what companies can and cannot do after the fact you create barriers to the ease of procuring insurance. (Attachment 8)

Brad Smoot, AIA, opponent, indicated that the bill had been up many times with many players involved and at no time has any progress been made on moving this legislation forward. We recognize that insurance is a highly regulated industry, we also acknowledge that homeowner's insurance is a private contract and like most other private contracts require a willing buyer and a willing seller. If one party no longer wishes to continue for whatever reason the legislature might wish to ask themselves as their predecessors have, what is the business of government to force the continuation of that agreement? (Attachment 9)

Senator Barnett stated that he could understand how an open-ended renewal would be a concern for insurance companies. He questioned if the industry would be open to a time frame of a year or a certain amount of time? Mr. Hanson responded that he would check with companies on their response, but that any time there was a time limit the harder it is to get off the risk. Answer: Certainly a time limit would help define it, but there is also concern about other underwriting factors and other claims experience.

Senator Buhler questioned the industry reps on whether most of the contracts were revocable at will? The response indicated that is not the case, but at the end of a policy the company does have the option whether to renew or not, however the policy cannot be canceled midterm.

Senator Teichman closed the hearing on **SB 339** and stated that the bill would not be worked today.

### **Bill Introduction:**

Mary Ellen Conlee, Via Christi Health Systems stated that the issue in the bill she is presenting relates to the State's granting of non-assignability provisions to Blue Cross/Blue Shield, which confers "special powers" upon one select corporation and violates Kansas public policy. (Attachment 10)

Senator Steineger made a motion to accept the bill. Senator Barnett seconded. Motion passed.

Meeting adjourned at 10:35 am

Next meeting scheduled for February 5, 2004.

SENATE FINANCIAL INSTITUTIONS & INSURANCE

~~REVISION~~

Date: 2-4-04

Name:

Representing:

Richard Wilhoit

Farmers Alliance

Bill Sneed

State Farm

Lee Wright

FARMERS

Jenny Wells

KFD

Sam Jones

KID

Bud Sweet

AIA

Kevin Davis

Am. Family

David Hanson

Ks Insur Assns & PCI

LARRY MAGILL

KAIA

Ron Gaches

GBBA

# KANSAS

OFFICE OF THE STATE BANK COMMISSIONER  
*CLARENCE W. NORRIS, Bank Commissioner*

KATHLEEN SEBELIUS, GOVERNOR

February 4, 2004

Senate Committee on Financial Institutions and Insurance

Request for Bill Introduction

Madam Chairman and Members of the Committee:

I would like to request introduction of a bill to amend Article 11 of Chapter 50 of the Kansas statutes pertaining to Credit Services Organizations. This bill would expand the definition of a CSO to include those entities who offer debt management services to consumers, increase our ability to supervise those activities, and provide additional consumer protections. I believe this bill will be supported by Kansas credit counseling organizations as well as the Attorney General's office.

Respectfully,



Kevin Glendening  
Administrator Kansas UCCC  
Deputy Commissioner  
Office of the State Bank Commissioner

Senate FI & I Committee

Meeting Date: FEB 4 2004

Attachment No.: 1



# K a n s a s I n s u r a n c e D e p a r t m e n t

**Sandy Praeger** COMMISSIONER OF INSURANCE

COMMENTS  
ON  
SB 339— HOMEOWNERS COVERAGE

February 4, 2004

Madam Chair and Members of the Committee:

This bill has its origin in 13 consumer complaints called into our Consumer Assistance Division. There will undoubtedly be other nonrenewals as policies come to term. In each instance, the complainant was nonrenewed by his insurance company as a result of damages sustained by tornado or other weather-related causes. The Department believes strongly that for a homeowner to first lose their home in some instances and then lose their insurance coverage on that home for reasons not of their making is unfair and unacceptable. To make matters worse, the mortgage holder will demand insurance coverage on that home if it is rebuilt, and clearly it will be more difficult for that homeowner to find insurance after having been cancelled.

The Department submits to the committee that such incidents go to the very heart of why insurance exists. For a consumer to be without insurance for submitting a claim for the damage or destruction of his home under these circumstances flies in the face of why insurance exists in the first place.

The Department will offer an amendment to this bill when it is worked. This bill belongs under the Unfair Trade Practices Act (K.S.A. 40-2404).

Jerry Wells  
Director of Government Affairs

Senate FI & I Committee

Meeting Date: Feb 4 2004

Attachment No.: 2

# Kansas Association of Property and Casualty Insurance Companies

David A. Hanson, Legislative Counsel  
800 SW Jackson - Suite 900  
Topeka, Kansas 66612  
785-232-0545

## TESTIMONY ON SB 339 February 4, 2004

TO: **Senate Financial Institutions and Insurance Committee**

RE: Senate Bill No. 339

Madam Chair and Members of the Committee:

Thank you for this opportunity to appear before the Committee. I am David Hanson and am appearing on behalf of the Kansas Association of Property and Casualty Insurance Companies, whose members are domestic insurance companies in Kansas.

Our member companies have remained in Kansas through the years, including the last fifteen years when Kansas was sometimes near the top in the most severe catastrophic storm losses nationwide. Our companies have continued to provide insurance coverage while some other companies withdrew from the State. We are concerned with this legislative proposal to limit companies' ability to cancel or non-renew policies due to storm loss claims for a number of reasons. First, we believe that such cancellations and non-renewals are not the general practice in Kansas. The proposed restriction would therefore be unwarranted and unduly encroach on appropriate underwriting of risks. Our companies need to be allowed to reasonably manage their businesses, including management of coverage concentrations. The proposed restriction on cancellation and non-renewal would in effect penalize our companies that have tried to continue providing coverage, even taking on higher risks in some areas where others have withdrawn.

We are also concerned that the proposed restriction fails to address the problem where a policyholder may have already had a number of non-storm related loss claims, such as repeated fire, theft, or vandalism claims, or where they own and insist on keeping a vicious dog that has attacked and seriously injured someone, the company may need to cancel or non-renew the policy, but if the policyholder then turns in a storm loss claim, the company may have a problem in trying to cancel or non-renew under this proposed legislation. Thus, we could be forced to continue providing coverage when cancellation or non-renewal may otherwise be justified and prudent. Undue restrictions on the ability to limit coverage will hurt availability as companies are forced to become more cautious in the risks they will accept.

We are also concerned that this proposal may have an unintended effect of impeding growth and competition, since companies would generally be reluctant to enter new market areas with these types of restrictions on underwriting and controlling coverages. This not only affects our companies, but may also discourage other companies from coming into Kansas. We must therefore oppose this bill.

Respectfully,

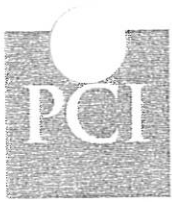


DAVID A. HANSON

Senate F I & I Committee

Meeting Date: FEB 4 2004

Attachment No.: 03



**Property Casualty Insurers  
Association of America**

Shaping the Future of American Insurance

2600 South River Road, Des Plaines, IL 60018-3286

February 3, 2004

Honorable Ruth Teichman, Chairperson  
Senate Financial Institutions and Insurance Committee  
State Capitol  
Topeka, Kansas 66612

Dear Honorable Ruth Teichman<

In reference to Senate Bill 339, which prohibits insurers from canceling or refusing to renew a policy of homeowners insurance when such cancellation or refusal to renew arises from any claim related to a single act of nature occurring subsequent to the issuance or renewal of such homeowners insurance policy, the Property Casualty Insurers Association of America is strongly opposed.

PCI is composed of more than 1,000 member companies, representing the broadest cross-section of insurers of any national trade association. PCI members write \$154 billion in annual premium, 38 percent of the nation's property/casualty insurance. Member companies write 35.2 percent of the Kansas homeowners market. Across the country, PCI members write 47.1 percent of the U.S. automobile insurance market, 37 percent of the homeowners market, 31.2 percent of the commercial property and liability market, and 38.8 percent of the private workers' compensation market.

In a competitive environment, insurance companies need the ability to establish minimum standards that must be met in order to purchase insurance. Insurers have always relied on historical data to help them accurately underwrite and price insurance policies.

By restricting insurers' ability to use actuarially sound underwriting guidelines the cost of paying claims is unfairly shifted from higher risk policyholder to lower risk policyholders. The ability to set underwriting guidelines is at the core of how insurance companies do business. The guidelines are key to the competitiveness of insurance companies and help make companies different. This allows consumers to have choices in the marketplace.

Sincerely

Ann Weber  
Regional Manager and Counsel, PCI

**Senate FI & I Committee**

**Meeting Date:** FEB 4, 2004

**Attachment No.:** 4

Testimony on behalf of the  
Property Casualty Insurers Association of America  
Regarding Senate Bill 339

February 4, 2004

Madame Chair and Members of the Committee. I am David Hanson and appear as local counsel on behalf of the Property Casualty Insurers Association of America, also known as PCI, a national trade association with over 1,000 member companies across the country. Our members write over 35% of the homeowners insurance in Kansas.

PCI has serious concerns with Senate Bill 339. Simply put, the restrictions this bill would place on the way insurers do business will provide little protection to consumers, but instead make it more difficult for insurers to make the decisions necessary for them to remain competitive in Kansas.

In the latter part of 1997, representatives of several of our member companies were invited to join with legislative leaders, former Insurance Commissioner Sebelius and business development leaders in a task force to explore ways to improve the business climate for insurance in Kansas. The task force recognized the positive impact that insurers have on the economy and sent a clear message to insurers that Kansas wants insurers to bring the jobs and other benefits that only an increased competitive environment in insurance, like any industry, can bring. One of the reports received by the task force indicated that state regulation on underwriting restrictions and cancellation/nonrenewal restrictions ranked second most significant of regulatory burdens of concern to insurers. One of the conclusions reached by the task force was that the regulatory climate in Kansas had been unnecessarily burdensome for too long for insurers to want to come to Kansas to compete. As a result of its study, the task force recommended that Kansas should pursue "... accelerated general deregulation and the movement to open competition ..." if Kansas is to remain competitive with other states. (See Final Report of the Task Force on the Kansas Insurance Industry, December 1997; Recommendation No. 4)

Consequently, we try to alert you to positive enhancements, as well as to unduly burdensome or unnecessary restrictions. We realize that this often entails a tough policy decision on your part. Insurers are also faced with difficult decisions in managing their businesses. The restrictions contained in this bill - though they are no doubt well-intentioned - go to the very heart of the decisions insurers need to be able to make without undue interference in order to be competitive. And, to be competitive in insurance means to be able to offer the best coverages at the best rates to consumers.

SB 339 would bar insurers from cancelling or nonrenewing a policy of homeowners, farmowners or renters insurance for any claim related to a single act of nature. Insurers understand the consumer protection goal here. The problem insurers have with this provision is not that they would be kept from cancelling or nonrenewing the person with the single claim. A competitive environment keeps that from happening now. This restriction would, instead, protect a person who may have a string of claims that become unreasonable in their frequency, but then has a single loss from a windstorm. As the bill is written, insurers would then have to keep insuring this otherwise bad risk, regardless of the person's other claim history and



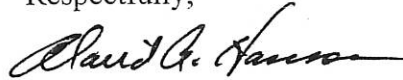
regardless of problems encountered on any of the various claims.

Who pays for these restrictions? Other similarly insured customers of a company cover the extraordinary claims of an individual who, in any other case, would have been taken out of the pool of insureds in which this person has proved he or she does not belong. This bill could be used to keep that person there, against the best interests of the rest of the people covered by similar insurance. This restriction also has the potential of placing an insurer in the impossible position of having to continue offering a line of business that it may no longer want or even be able to provide. These are the kinds of restrictions that insurers consider closely when deciding whether to enter a new market or to offer a new product in an existing market.

It would appear that, if this bill is enacted, insurance consumers would gain little actual new protection, but could very well be forced to bear the additional cost of insurance that results when insurers are forced to continue providing coverage on risks that are no longer appropriate for that coverage. Likewise, the goals of encouraging more availability and competitive insurance rates will not be served if Kansas enacts restrictions that discourage insurers from entering this market.

We therefore urge you not to pass Senate Bill 339.

Respectfully,



DAVID A. HANSON  
PCI Local Counsel

**ALLSTATE INSURANCE COMPANY**  
LAW AND REGULATION  
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Englewood, CO. 80111  
Writer's Direct Dial 303-779-3723  
Telecopier 303-779-3717

**RICHARD D. TURANO**  
Regional Counsel

**February 4, 2004**

The Honorable Ruth Teichman, Chairperson  
Senate Financial Institutions and Insurance Committee  
State Capitol  
Topeka, KS 66612

Re: SB339-prohibiting the cancellation or non-renewal of a homeowner policy  
for a single act of nature

Dear Senator Teichman:

I am the Regional Counsel for Allstate Insurance Company for the state of Kansas. I was a member of the Legislative Task Force on insurers' use of insurance scoring and appreciated your participation and insights during discussions the Task Force had on this issue last year. I am writing at this time to share my concerns about the provisions contained in Senate Bill 339, as the requirements of this bill would negatively impact the overwhelming majority of consumers of Kansas and the insurance industry. SB339 is scheduled for hearing today before your committee.

Essentially, this bill would preclude insurers from considering claims in the underwriting of insurance that result from a "single act of nature." Insurers have found such claims highly predictive of future loss and rely on this claim information, in part, to assess the overall risk of our policyholders or applicants. As most people do not have such claims, legislation such as SB339, effectively forces insurers to disregard valuable knowledge of loss history to the advantage of those individuals who have had such claim activity in the past. This has an adverse impact on those with no claim history. In reality, the percentage of Allstate insureds who were non-renewed in Kansas for the final quarter of 2003, is less than two percent (2%). In properly evaluating the risks, insurers can contribute to a healthy and stable insurance marketplace. SB339 would preclude a proper evaluation of risk, despite such valuable information being available.

In contrast, our company data shows that insureds with one claim have a loss ratio relativity performance of 103, compared to insureds with no claims, which have a loss ratio relativity performance of 92. That is, these customers are 11% more likely to have future losses. In using this claim information, even as it is derived from losses resulting from nature, these insureds should pay more for insurance than those who have not experienced a loss to the insured property.

Insurers have always relied on claims information to help them accurately underwrite and price insurance policies. Generally speaking, the higher the risk (the greater the likelihood of future losses), the higher the price. This assures that prices are fair to all consumers and that lower risk consumers are not forced

**Senate FI & I Committee**

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to subsidize the losses of their higher risk peers. To force insurers to ignore a single claim from nature is to impede an insurers ability to properly underwrite their book of business.

The homeowners insurance market is very competitive in Kansas with many insurers vying for business on the basis of price, quality of insurance product, and service. Claim histories are only one of many different factors that companies consider in the underwriting process and this information affects the price of the product as well as the availability in the marketplace. We wish to ensure that homeowners insurance remains available and affordable in Kansas and believe that a stable insurance marketplace benefits both the consumers and companies doing business in the state.

Thank you for allowing Allstate Insurance Company to provide comments on this pending legislation. We ask for your support in defeating SB339 during the Committee vote. If there are any questions on this subject or any other insurance issue, please do not hesitate to contact me at any time

Sincerely,

Richard Turano

# Farmers Alliance

Insuring Rural America Since 1888

## Cancellation/Single Storm Loss

Senate Financial Institutions & Insurance Committee

S.B. 339

February 4, 2004

Madam Chair and Members of the Committee, I appreciate this opportunity to share our views on S.B. 339.

My name is Rick Wilborn. I am Vice President of Government Affairs for the Farmers Alliance Mutual Insurance Company. Farmers Alliance is a domestic property and casualty company that has been operating in and committed to Kansas since 1888. We also write property and casualty insurance in eight other contiguous states.

We understand and respect the viewpoint of the Kansas Insurance Commissioner as it relates to her concern of carriers canceling for a single storm loss. We do not condone the practice nor to the best of our knowledge have we ever canceled strictly because of a single storm loss. However, we have other concerns.

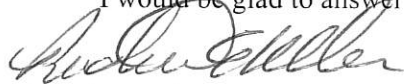
The way the bill is currently written, it severely restricts our ability to manage our book of business. For example, we occasionally will sever our relationship with an agency - canceling their contract. All policies written through that agency are nonrenewed as they expire over time. Some may have no losses, some may have one loss, and others may have many losses. Regardless, a policyholder could point their finger at a single storm loss.

Occasionally, an adjuster will go to a scene and encounter an uncooperative insured. These actions are reported to the underwriter that this is not the type of risk that would fit our underwriting guidelines. Or, possibly, there has been a change of underwriting conditions; such as a rottweiler in the backyard, or an unfenced swimming pool, and, again, a note to the underwriter indicating this risk does not fit our underwriting guidelines.

These examples, on top of the single storm loss, would make it much more difficult for us as an insurance carrier. These decisions are made to maintain solvency, spread of risk, and maintain proper concentration of business so that we can be a viable insurance carrier and protect our policyholders.

Again, I appreciated the opportunity to share our concerns with you and would respectfully ask that we have the opportunity to work with the insurance department on language that would be palatable for the carriers, as well as appropriate for the consumers. As written, we strongly disapprove of S.B. 339.

I would be glad to answer any questions you might have.



Richard E. Wilborn, CPCU  
Vice President, Government Affairs

1122 N. Main, P.O. Box 1401 • McPherson, KS 67460  
620.241.2200 • fax 620.241.5482 • www.fami.com

Farmers Alliance Mutual Insurance Company • Alliance Administrators, Inc. • Alliance Indemnity Company  
Senate FI & I Committee

Meeting Date: Feb 4, 2004

Attachment No.: 6



**FARMERS**

10850 Lowell  
Overland Park, Ks. 66210  
Bus 913.661.6580  
Fax 913.323.6172

February 3, 2004

**TESTIMONY ON SENATE BILL 339**  
**SENATE FINANCIAL INSTITUTIONS and INSURANCE COMMITTEE**

Thank you Madame Chairperson and members of the Committee. My name is Lee Wright and I represent FARMERS Insurance. We appreciate this opportunity to testify in opposition to SB339.

To begin with, FARMERS does not cancel or non-renew homeowner policies as a result of an insured making a single claim for an "act of nature" loss. But, we are unclear as to exactly what the Insurance Department is attempting to accomplish with their bill.

We have no problem if their language in Sec. 2 is meant to protect a policyholder from losing their policy when they incur a storm loss and have a favorable claims history.

We do object if their intention is to deny our ability to non-renew an insured that doesn't reasonably maintain their property, files many claims, and prefers using insurance as a maintenance policy. In those situations, if the most recent claim made happens to result from an act of nature, are we then precluded from taking underwriting action on that insured, despite their poor loss history and morale risk?

We feel the Committee should also question if a legislative fix is truly warranted at this time.

Only twelve complaints were received last year by the Insurance Department over this issue.

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In conclusion, we want to remind the Committee that consumers benefit when more companies compete to offer the best insurance products, price and service. Regulatory excess operates as a disincentive to do business for companies and could hinder the growth of the industry and marketplace.

This fact was made clear to the **1997 Governor's Task Force on the Insurance Industry**, on which then Senator Praeger served. The Task force concluded that Kansas "... should facilitate the creation and maintenance of an environment in which a strong competitive market can thrive".

Thank you.

# Polsinelli | Shalton | Welte

A Professional Corporation

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## Memorandum

**TO:** THE HONORABLE RUTH TEICHMAN, CHAIR  
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

**FROM:** WILLIAM W. SNEED

**RE:** S.B. 339

**DATE:** FEBRUARY 3, 2004

Madame Chair, Members of the Committee: My name is Bill Sneed and I represent The State Farm Insurance Companies ("State Farm"). 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. We appreciate the opportunity to appear in opposition to S.B. 339.

The issues surrounding S.B. 339 have been studied numerous times by the Kansas Legislature over the last ten years. Since 1994, the Kansas Legislature has had five bills dealing with this subject, not including this year's bill. In fact, after the 1994 session, a request was proposed to refer the subject for an interim study, and that request was even rejected by the Legislature.

Certainly, catastrophic events caused by nature create not only physical damage to property, but emotional scars for property owners as well, and the aftermath is always a delicate balance between first paying those claims pursuant to the policy, and thereafter conducting an evaluation by an insurance company relative as to whether to maintain that risk or take other measures. Before speaking specifically to our concerns relative to S.B. 339, I believe the Committee should, if the members are desirous of spending time on this proposal, ask the Insurance Department specific and pointed questions relating to the public policy of such a proposal.

First, news reports indicate that this bill was generated based upon twelve complaints after a May 18<sup>th</sup> tornado. Although we could generate more specific numbers to the May 18<sup>th</sup> event, we contend that the Legislature should compare those complaints to the total number of claims during 2003. State Farm alone handled over 7,000 catastrophic natural disaster claims and paid over \$59 million dollars on those claims. No one would suggest that just because thousands of other claims were paid and those individuals did not lose their coverage, that those

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One AmVestors Place  
555 Kansas Avenue, Suite 301  
Senate FI & I Committee

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who in fact did lose coverage are not left in a precarious position. However, what this does show is that the vast majority of claims that are handled throughout the State of Kansas based upon catastrophic losses do not result in cancellation.

Second, we believe it should be important for the Insurance Department to provide adequate proof that the only reason the individuals who filed complaints lost their coverage was due to the filing of a weather-related claim. What we have seen occur is that after a major catastrophe, many companies limit their risk in a particular state in an attempt to pull back their exposure. They may do this by reducing the number of agents they have to sell their products, and obviously, when this occurs individuals may lose their coverage. Further, the most recent claim prior to the cancellation or non-renewal may be the end result of a multitude of claims over a substantial period of time. Insurance companies have to evaluate their underwriting profit and loss over periods of time in order to maintain adequate reserves to cover the next major catastrophe.

Finally, even if there is some residual cancellation or non-renewal in this state, we are unaware of, and the Department should be asked, whether there is an unavailability of homeowners insurance in the State of Kansas. We do not believe so, and even if a company makes a decision to cancel or non-renew, it appears that there are adequate coverages throughout the state to provide individuals with insurance coverage.

As it relates to S.B. 339, we would point out several items that we believe demonstrate the bill as written is flawed.

First, the Department has expanded the term "homeowners insurance" to include "individually underwritten policies of farmowners, condominiums, townhomes and policyholders of renters insurance." (Lines 19-21.) Initially, we are uncertain as to what "individually underwritten" means. Further, the types of insurance listed in this description are traditionally commercial lines of insurance and not personal lines of insurance; thus, the filings that are made relative to cancellation and non-renewal are substantially different in the commercial line versus the personal line. This co-mingling of certain types of insurance may make it problematic for additional filings on coverages for these types of entities.

Second, in Section 2 there is no identifiable time frame for this "single act of nature." Does that mean a single act within a one-month period or a five-year period? Catastrophic acts are, unfortunately, an occurrence within the State of Kansas. Individuals who live in areas that are prone to tornadoes will always be prone to tornadoes, and thus whether one occurs at one point in time versus another becomes a major issue in determining cancellation or non-renewal.

Next, the bill is silent as to whether, inasmuch as you cannot non-renew or cancel on a "single act," an insured can issue a surcharge for that loss. Currently, the Kansas Insurance Department does not allow insurers to surcharge on individual acts. Thus, if we are unable to cancel on individual acts, the bill leaves open whether these surcharges would be available to insurance companies. Surely the Insurance Department is not arguing that when someone has a loss, they are going to require that the company maintain the risk but that it cannot, in any fashion, recover in some form through rates the economic loss suffered.

Finally, the bill is silent as to what is meant by a cancellation that "arises from any claim." Does this mean the claim cannot be computed in any fashion in the rate base? Does this

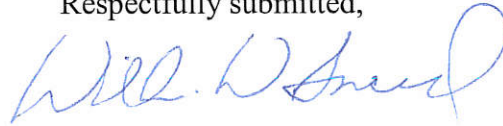


mean that can only be considered if there are other claims? And as stated above, what are those time frames?

We certainly understand people's concerns when there is cancellation or non-renewal of coverages. However, our citizens enjoy the luxury of procuring insurance on a relatively easy basis. There is minimal work that insureds have to do in order to procure insurance. That is because Kansas law allows the flexibility for companies to review coverages over time. If this legislation were passed, we contend that flexibility would be limited, and thus, in order to compensate, insurers would be forced to do more extensive underwriting at the front end of a policy period, thus causing more delay and inconvenience for the general public. Therefore, we believe S.B. 339 is not in the best public interest.

We appreciate the opportunity to speak to the Committee on this issue, and we would be happy to discuss this with you at any time. Based upon the foregoing, State Farm would respectfully urge the Committee to not act on S.B. 339.

Respectfully submitted,



William W. Sneed

WWS:kjb

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Statement of Brad Smoot  
Legislative Counsel  
The American Insurance Association  
Senate Financial Institutions and Insurance  
Regarding 2004 Senate Bill 339

February 4, 2004

Madam Chair and Members:

On behalf of the American Insurance Association (AIA), we are pleased to have the opportunity to comment on Senate Bill 339. AIA is a trade association of more than 300 companies offering property and casualty insurance in all fifty states. Our members provide homeowners, auto, workers comp and general liability for hundreds of thousands of Kansas families and businesses.

The American Insurance Association generally opposes legislation that, while well intentioned, limits the ability of insurers to nonrenew insurance contracts. Such laws amount to guaranteed renewal. Similar bills have been proposed by the Kansas Insurance Department in the past. See 1994 H 2637; 1996 S 443, 1997 S 48 and 1998 S 422. None of these measures have ever passed any committee in either house.

In general, "exit barriers," like S 339, deter companies from entering new insurance markets and new companies from entering into Kansas' homeowners insurance market. In other words, the harder it is to get out, the less eager companies will be to get in. S 339 creates a one-sided multi-year obligation which may make the insurer even more hesitant to issue policies in the first place.

While we recognize that the business of insurance is highly regulated, we are reminded that a homeowners insurance policy is still a private contract and, like almost any other successful contract for products or services, a willing buyer and willing seller are needed. If one party no longer wishes to continue the contract, should it be the business of government to force continuation? In the absence of a showing of a widespread problem where homeowners and others are unable to acquire comparable insurance, S 339 seems at best unnecessary and at worst potentially harmful. A dozen alleged cases out of hundreds of thousands of policies does not seem to us to be a crisis requiring legislation.

For these reasons, we encourage the Committee to reject S 339. I would be pleased to respond to questions

Senate FI & I Committee

Meeting Date: FEB 4 2004

Attachment No.: 9

**BILL REQUEST PRESENTED TO THE  
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE  
By Mary Ellen Conlee on behalf of Via Christi Health System  
February 4, 2004**

**ISSUE:** The State's granting of "nonassignability" provisions to Blue Cross in K.S.A. 40-19c06(b) confers "special powers" upon one select corporation, Blue Cross, and violates Kansas public policy which favors free assignability. As a rule, Preferred Provider Organization (PPO) policies and procedures allow the insured access to non-contracting providers, but assess a penalty against the insured to discourage such decisions. Via Christi Regional Medical Center, as a non-contracting provider of Blue Cross services, has faced an additional penalty when caring for Blue Cross patients as a result of this "nonassignability" provision. Some insured **keep** the Blue Cross payment for themselves instead of passing it on to pay the hospital bill they incurred. This practice, sanctioned by the current statutory language, has resulted in costly litigation and unnecessary bad debt for Via Christi and unjust enrichment for the patient.

This proposal requests the last sentence of K.S.A. 40-19c06(b) be amended as follows:

40-19c06(b) . . . The agreements issued by any corporation currently or previously organized under this act may *not* include provisions ***that restrain, restrict, limit or prevent any subscriber from assigning health insurance proceeds to any non-contracting hospital at which such subscriber received*** services ~~allowing for direct payment of benefits only to contracting health care providers.~~

The existing statutory language (which allows for direct payment of benefits only to contracting health care providers) was presented for consideration at the "eleventh hour" of the 1993 Legislative session in a conference committee environment and was touted solely as a "technical correction" when; in fact, it was a substantive modification to the statute which resulted in favorable treatment of only one corporation – Blue Cross. The language of this "technical correction" was never presented to the Legislature as a whole for full debate and consideration. Its resulting favoritism of **one** corporation out a class of similarly situated corporations was never fully examined and constituted "special legislation."

Language allowing Blue Cross the special power of "nonassignability" was initially drafted and allowed in recognition of Blue Cross's **former** status as a state-chartered nonprofit health insurer. In 1993, however, Blue Cross shed its statutory state-chartered nonprofit health insurer status in favor of status as a mutual life insurance company. In doing so, Blue Cross shed its favored status and along with that should have lost the right to enjoy the tool of "nonassignability."

The citizens of Kansas should not be prevented from exercising their right to free assignment of their insurance benefits and Blue Cross should be treated no differently than any other ordinary health insurer. Providers of health care services working with patients who are insured through PPOs are allowed to request assignment of benefits from all other health insurance companies except Blue Cross. The amendment to K.S.A. 40-19c06(b) requested above will correct this inequity.

Senate FI & I Committee

Meeting Date: FEB 4, 2004

Attachment No.: 10