

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 P.M. on February 8, 2005 in Room 527-S of the Capitol.

All members were present except:

Representative Bonnie Sharp- excused

Representative Ray Cox- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department

Terri Weber, Kansas Legislative Research Department

Ken Wilke, Revisor of Statutes Office

Sue Fowler, Committee Secretary

Conferees appearing before the committee:

Jarrold Forbes, Topeka, KS

Cal Lantis, Ottawa, KS

William Sneed, Topeka, KS

Brad Smoot, Topeka, KS

David A. Hanson, Topeka, KS

Others attending:

See attached list.

Hearing on:

HB 2173: Insurance; prohibiting counting an insurance related inquiry as an insurance claim.

Melissa Calderwood, Kansas Legislative Research Department, gave a brief overview of **HB 2173**.

Proponents:

Jarrold Forbes, Kansas Insurance Department, (Attachment #1), appeared before the committee in support of **HB 2173**.

Cal Lantis, Kansas Association of Realtors, (Attachment #2), presented testimony in support of **HB 2173**.

Opponents:

William W. Sneed, Legislative Counsel for The State Farm Insurance, (Attachment #3), presented testimony in opposition to **HB 2173**.

Brad Smoot, American Insurance Association, (Attachment #4), appeared before the committee in opposition to **HB 2173**.

David A. Hanson, Kansas Association of Property and Casualty Insurance Companies and PCI, the Property Casualty Insurers Association of America, (Attachment #5), presented testimony in opposition to **HB 2173**.

Hearing closed on **HB 2173**.

Hearing on:

HB 2174: Insurance; prohibiting loss of coverage of homeowner's insurance for filing on weather related claim.

Melissa Calderwood, Kansas Legislative Research Department, gave a brief overview of **HB 2174**.

CONTINUATION SHEET

MINUTES OF THE House Insurance Committee at 3:30 P.M. on February 8, 2005 in Room 527-S of the Capitol.

Proponents:

Jarrold Forbes, Kansas Insurance Department, (Attachment #6), gave testimony in support of **HB 2174**.

Cal Lantis, Kansas Association of Realtors, (Attachment #7), gave testimony in support of **HB 2174**.

Opponents:

William W. Sneed, Legislative Counsel for The State Farm Insurance Companies, (Attachment #8), presented testimony in opposition to **HB 2174**.

Brad Smoot, American Insurance Association (AIA), (Attachment #9), presented testimony in opposition of **HB 2174**.

David A. Hanson, Kansas Association of Property and Casualty Insurance Companies and PCI, the Property Casualty Insurers Association of America, (Attachment #10), appeared before the committee in opposition to **HB 2174**.

Lee Wright, Farmers Insurance, (Attachment #11), presented written testimony in opposition to **HB 2174**.

Richard E. Wilborn, Farmers Alliance, (Attachment #12), presented written testimony in opposition to **HB 2174**.

Hearing closed on **HB 2174**.

Discussion and possible action:

HB 2171 - Insurance; risk-based capital requirements.

Representative Dillmore moved HB 2171 favorable for passage. Seconded by Representative Grant. Passed unanimously.

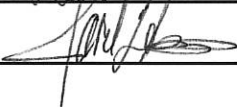
HB 2172 - Insurance agents; revocation of license.

Representative Grant moved HB 2172 favorable for passage. Seconded by Representative Dillmore. Passed unanimously.

Next meeting will be Thursday, February 10, 2005.

Meeting adjourned at 4:50 p.m.

**House Insurance Committee
Guest Sign Sheet
Tuesday, February 8, 2005**

Name	Representing
David Hanson	Ks Insur Assns / PCI
Cal Lawtis	Ks Assoc. of Realtors
Karen Gehle	KS Assn of Realtors
Mike Reacht	Duches, Bladen
Danielle Davey	Intern-Dillmore
Mike Steiner	KTD
Alex Kobayantz	PIA
Bill Speed	State Farm
Peggy Ann Hower	KS Govt Consulting
	KID



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

COMMENTS ON
HB 2173—RELATING TO CERTAIN INQUIRIES RELATING TO COVERAGE
HOUSE COMMITTEE ON INSURANCE
February 8, 2005

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. House Bill 2173 would prohibit the reporting of inquiries to C.L.U.E. or other similar databases.

This bill affects a system those in the industry have come to know as C.L.U.E. (Comprehensive Loss Underwriting Exchange). C.L.U.E. is a database containing valuable information on any given consumer and the property they own. The Commissioner is not interested in doing away with the C.L.U.E. system, and this bill does not do that. However, we need to make sure what is being reported to the database is appropriate.

When a consumer is paid for a loss on property, that loss and the pertinent facts surrounding the claim are reported to C.L.U.E. That information is then available to other insurers who may be offering coverage to a consumer. We agree this is an appropriate function of the database and does help in the accuracy of basing coverage and rates for a given piece of property.

However, we have seen this process misused. For example, a consumer backs their car into a light pole slightly scratching their rear bumper. Let's say that the consumer cannot remember what their deductible is, so they call their agent or insurance company to find out. Naturally, the consumer explains the situation so the agent knows why they are calling. When the consumer goes to the body shop they find out that the cost to fix the bumper is not worth filing a claim, so they pay for the repair out of their own pocket.

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Attachment # 1

The problem occurs when that phone call to the agent is reported to C.L.U.E. Since the consumer did not file, nor did the insurance company pay on a claim, we do not believe this case should be reported to C.L.U.E. The insurance company did not pay on a loss, and yet the simple inquiry may be reported to C.L.U.E. as a claim.

These are the instances we are attempting to prohibit from being reported. As you will notice on the attached FAQ sheet any reporting of information to the database goes unchanged unless specifically requested by an insurer. The purpose of House Bill 2173 is to only allow filed claims to be reported to this database.

We want C.L.U.E. to function within the industry, but we do not believe it is always being used appropriately. With that, Mr. Chairman, I would be happy to stand for questions.

A handwritten signature in black ink, appearing to read "Jarrod Forbes", with a long horizontal flourish extending to the right.

Jarrod Forbes
Assistant Director
Government Affairs



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

What is a C.L.U.E. Report?

CLUE stands for Comprehensive Loss Underwriting Exchange. It is a comprehensive database of personal property information relating mainly to insurance claims on private property. CLUE was developed by, and is currently operated by, ChoicePoint. *(Another significant provider of this type of database is A-PLUS, managed by the Insurance Services Office (ISO))*

What type of information is found on a C.L.U.E. report?

The typical CLUE report contains information about either a consumer or a particular property. Included is general information about the consumer such as their name, birth date, and sex, as well as current and previous addresses. The key information on the report is the claims history of the individual or the property. This section includes a list of all claims made in the last seven years. The claim history report includes the date of the claim, the name of the insurance company involved, policy number, claim number, address, cause of loss, amounts paid, status of the claim, and the name of the insured and the claimant. It is important to note that the CLUE report details the "claim history" of a given consumer.

Many consumers have been surprised to find that such history may include any call made to an insurance representative regarding a loss, whether or not a claim is actually filed.

How can an individual obtain a copy of their CLUE report?

The reports can be obtained from ChoicePoint over the web at www.choicetrust.com or through regular mail. ChoicePoint charges \$9.00 for each report requested via standard mail and \$12.95 for each electronic report. Furthermore, a consumer who has been the subject of adverse action based on the information in the report is entitled to a free copy of the report if they request it within 60 days of the adverse action. Adverse action can include denial of

coverage or an increase in premium charges. Insurers are obligated to notify consumers when adverse actions have been taken.

Who determines what information is put on the report?

While ChoicePoint compiles the information from all the contributors and maintains the database, the information on the report comes directly from insurance companies who give information on claims to ChoicePoint.

ChoicePoint clearly states that they do not change the substance of any claims information unless directed to by the insurance company that contributed the data.

Who, besides the individual owner of a property, has access to CLUE Reports?

Insurance companies also have access to CLUE reports. The report is used by insurance companies for evaluating potential customers. Only insurance companies that provide information to ChoicePoint on claims made by their current policy-holders are allowed to access the CLUE database which contains the claims information from all other participating providers. Currently, approximately 90 percent of American insurance companies participate in the service. Under the FCRA, ChoicePoint may only furnish reports to entities it believes will use the information for underwriting purposes related to the individual consumer whose report was requested. Parties (other than owners) requesting reports from ChoicePoint must certify that they intend to use the information for permissible purposes such as insurance underwriting only.

How can a CLUE report pose problems for homeowners or future homeowners?

When faced with a prospective insured, insurance providers use the CLUE database to find out information not only about the customer, but also about the residence to be covered. Often this will cause problems for homeowners who have recently purchased a property. If a consumer assumes they will be able to get insurance easily because they always have had coverage and have never made any claims, they may be surprised when they are turned down based on claims made on their new property by the previous owners.



Testimony in Support of
House Bill 2173
February 8, 2005
The House Insurance Committee
Chairman Clark Schultz

Honorable Chairman Schultz and members of the Committee:

I am Cal Lantis, appearing before you this afternoon as President of the Kansas Association of REALTORS®. KAR is a statewide professional trade association for real estate licensees and has a membership of approximately 9,400 working to assist your constituents in their home ownership needs.

Today, we are here to voice our support for the legislation before you, HB 2173, which would help to protect homeowners and their insurance needs by denying the inclusion of "inquiries" on C.L.U.E. (Comprehensive Loss Underwriting Exchange) reports or other similar databases.

The use of CLUE reports by insurance carriers can impact the homeowner because they detail the number of insurance-related inquiries that have been made on a property, in addition to the number of claims. The policy question central to this matter is exactly what constitutes a claim. We think the policy should be clear that a claim is a claim – not an inquiry. As such, if a homeowner calls their insurance carrier to ask a question regarding their coverage – but does not submit a claim - then that fact should not be part of the CLUE report.

-more-

House Insurance
Date: 2-8-05
Attachment # 2



785.267.3610
VOICE

800.366.0069
TOLL FREE

785.267.1867
FAX

3644 SW Burlingame Rd
Topeka, Kansas 66611
www.kansasrealtor.com

Testimony in Support of
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The possibility of homebuyers who have met all of the transaction qualifications being denied property casualty insurance because of information gained through the CLUE is a serious homeownership issue. This could have the effect of removing thousands of perfectly good homes from the market when buyers are denied insurance because of perceived property defects.

In closing, we want to commend the Kansas Insurance Commissioner for her leadership in this area and her department for its responsiveness to this problem. And we would respectfully ask the committee for its favorable consideration of this legislation.

Thank you and I would be happy to answer any questions.

Polsinelli | Shalton | Welte

A Professional Corporation

Memorandum

TO: THE HONORABLE CLARK SHULTZ, CHAIR
HOUSE INSURANCE COMMITTEE

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

RE: HOUSE BILL 2173

DATE: FEBRUARY 7, 2005

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent State Farm Insurance Companies ("State Farm"). State Farm is the largest insurer of homes in the United States and Kansas. We appreciate the opportunity to testify on House Bill 2173. House Bill 2173 limits an insurer's ability to report and use "information" for underwriting purposes. Last year, a similar bill, SB 347, was unable to pass out of the Senate FI& I Committee.

As you know, there have been recent media reports regarding the use of CLUE® by insurance companies. CLUE, Comprehensive Loss Underwriting Exchange, has existed for over ten years. It is a database of claim information that insurers use to assist them in assessing the risk of loss. Insurers use CLUE to verify the accuracy of the applicant's prior loss information.

Prior to CLUE, underwriters sent "experience letters" to an applicant's prior insurers to obtain loss history information. This process was time intensive and delayed the processing of homeowners insurance applications. With the advent of CLUE, insurers no longer had to exchange correspondence about an applicant's loss history. CLUE allows insurers to access this information almost instantaneously. This enables insurers to quickly respond to an insurance application. Loss history reports are more efficient and convenient than experience letters. Consumers expect and benefit from the greater efficiency this database offers.

CLUE, due to its comprehensive nature, is a more accurate way to confirm prior loss history. Its greater accuracy allows insurers to appropriately assess the risk and price their product accordingly.

Minimal damage or uncovered claims can be predictive of future loss. Damage such as cracked foundations, construction defects or repeated water seepage is not covered by homeowners insurance. However the existence of this type of damage indicates a greater likelihood of future

One AmVestors Place
555 Kansas Avenue, Suite 301
Topeka, KS 66603
Telephone: (785) 233-1446
Fax: (785) 233-1939

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covered claims under the policy from this peril. Minor dog bite cases may not result in a claim, but their occurrence indicates an increased risk of loss. Insurers need to know this information to properly underwrite the risk

State Farm recognizes Kansans' concerns regarding the use of inquiries for underwriting purposes. State Farm and the industry have worked on a legislative proposal that addresses these concerns, yet allows insurers to continue to use inquiries when appropriate. We believe this proposal strikes a reasonable balance between the interest of consumers and insurers.

Be it enacted by the Legislature of the State of Kansas:

(a) As used in this act:

(1) "Inquiry" means any oral or written communication.

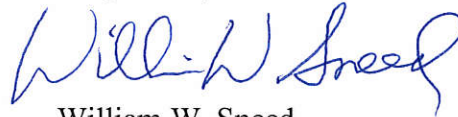
(2) "Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating information on consumers for the purpose of furnishing consumer reports to third parties.

(b) No inquiry by an insured on any property, real or personal, shall be reported by an insurer to a consumer reporting agency with respect to a policy of homeowner's insurance if such inquiry only involves a request for information regarding the terms, conditions or coverage's afforded under a homeowner's insurance policy and such request is not related to any property or liability loss and no damage has occurred to the insured property. Nothing in this act shall be construed to prohibit or otherwise restrict any insurer from reporting information to any regulatory agencies, law enforcement or fraud reporting agencies.

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 favorably on House Bill 2173.

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

Respectfully submitted,



William W. Sneed

019646 / 032884

WWSNE 1166860

BRAD SMOOT

ATTORNEY AT LAW

800 SW JACKSON, SUITE 808
TOPEKA, KANSAS 66612
(785) 233-0016
(785) 234-3687 (fax)
bsmoot@nomb.com

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206

STATEMENT OF BRAD SMOOT
LEGISLATIVE COUNSEL
AMERICAN INSURANCE ASSOCIATION
HOUSE INSURANCE COMMITTEE
REGARDING 2005 HOUSE BILL 2173
February 8, 2005

Mr. Chairman and Members:

On behalf of the American Insurance Association, a trade group of more than 430 property and casualty insurers providing commercial and personal lines coverage in all fifty states, we are pleased to have an opportunity to visit with you about 2005 House Bill 2173. Unfortunately, we must oppose the bill as currently drafted.

AIA member companies provide homeowners insurance – as well as workers' compensation, general liability, and automobile insurance – across the country. Consequently, our member companies are vitally interested in having similar laws governing our conduct in the various states. The National Conference of Insurance Legislators (NCOIL) is likely to finalize a model bill governing insurer use of claims information for both underwriting and rating purposes in early March of this year. In the interests of multi-state uniformity, we would encourage the Legislature to wait for the model bill before taking action on this subject.

In addition, HB 2173 has several vague terms that we believe make the bill, as drafted, difficult to understand, implement or enforce. For example, the bill only applies to use of claims information for "insureds," which implies existing customers. Insurers know the claims history of their current policyholders, and generally only look at claims history reports for new business. Consequently, the bill appears to have no impact on our members, but we have difficulty believing that to be the real intent of the bill.

The bill also appears to be limited to "personal" property claim information. Technically, this means the bill would apply to a claim made under a homeowner's insurance policy that involves personal property (contents, jewelry, etc.) but not on the residence itself. Again, we cannot imagine that this is the intent of the bill.

Also confusing is what is meant by a "formal claim." Who decides what is a "formal claim?" Is it the insurer when a claim file is opened? Or the insured when a claim form is filed? Or, when the claim information provider (not the insurer or insured) lists the matter in its data bank? Likewise, we are concerned about the reference to an insurer's "independent knowledge." Would this allow or prohibit an insurer that identifies "details" about a policyholder's property from a loss history report provider from then independently verifying that information, and then using it? Frankly, the bill raises more questions than it answers.

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Similar legislation was introduced in the Senate during the last session but was not advanced by the Senate Financial Institutions & Insurance Committee. We are available to work with the Kansas Insurance Department and others to develop some reasonable guidelines regarding the use of claims information, but must respectfully ask the House Insurance Committee to withhold approval of HB 2173 until many of the above questions have been answered and the NCOIL model bill is available for your consideration. Thank you.

GLENN, CORNISH, HANSON & KARNS, CHARTERED

800 SW Jackson - Suite 900

Topeka, Kansas 66612

785-232-0545

TESTIMONY ON HB 2173

February 8, 2005

TO: House Insurance Committee

RE: House Bill No. 2173

Mr. Chairman 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, and also on behalf of PCI, the Property Casualty Insurers Association of America, with over 1,000 member companies across the country writing about 38% of the property-casualty market last year.

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 a regulatory climate in Kansas that was unnecessarily burdensome would prevent insurers from wanting 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.

We understand and appreciate the concerns of the Kansas Insurance Commissioner in attempting to address inquiries by consumers regarding their property coverage. However, we are concerned with the broad terms of HB 2173 and the potential for unintended consequences. We believe revisions will be needed to help clarify the applicability of the restrictions imposed by the bill.

Without these revisions and clarifications, we fear that underwriting in Kansas will be significantly affected. We are concerned that processing applications and coverage issues will become complicated and delayed as agents and insurers will not be able to use any information until it is independently verified. Under the broad terms of the bill, we are also concerned that more and more reports of property damage will be categorized as merely inquiries and not "formal claims" in order to avoid reporting of loss information. In order to effectively underwrite and manage its book of business, a company needs to be able to use information relating to the condition of the property being insured under the policy. If the insured finds that

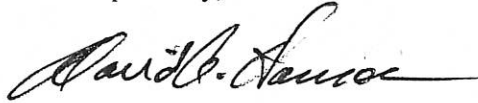
House Insurance
Date: 2-8-05
Attachment # 5

the damage is not covered by their policy or is less than their deductible in the policy, they are likely to suggest that they had simply made an inquiry, not a formal claim. That may seem fair in some situations, but not in others where significant damage has been sustained and reported or a significant risk has been identified. One of the critical elements then becomes how to distinguish between an inquiry and a formal claim.

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 where there are excessive restrictions on underwriting and controlling coverages. Undue restrictions on the ability to underwrite will hurt availability as companies are forced to become more cautious in the risks they will accept.

We appreciate your consideration of our concerns and would ask that the bill not be passed in light of these concerns.

Respectfully,

A handwritten signature in black ink, appearing to read "David A. Hanson", written in a cursive style.

DAVID A. HANSON



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

COMMENTS ON
HB 2174—RELATING TO THE CANCELLATION OR REFUSAL TO OFFER
CONTINUED COVERAGE
HOUSE COMMITTEE ON INSURANCE
February 8, 2005

Mr. Chairman and members of the committee:


Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. House Bill 2174 would not allow an insurer to cancel or non-renew a policy for a single weather related claim.

I think we all can agree that homeowner's insurance is an unwritten mandate. When you have lending institutions requiring property owners to maintain insurance for the duration of a mortgage loan, homeowner's insurance is a must for the vast majority of our population.

Nothing in this act prevents an insurer from canceling or non-renewing a policy based on multiple weather related claims. This bill only applies to a maximum of two renewals on any one policy. Finally, nothing in this legislation would prevent an insurer from increasing the rates of individuals affected by storm damage.

We want to give Kansans a level of comfort that when they are dealing with the crisis of a storm and the resulting property loss, they shouldn't also have to fear the loss of insurance.

With that Mr. Chairman, I would be happy to stand for any questions the committee may have.


Jarrod Forbes
Assistant Director
Government Affairs

House Insurance
Date: 2-8-05
Attachment # 6



Testimony in Support of
House Bill 2174
February 8, 2005
House Insurance Committee
Rep. Clark Schultz, Chairman

Mr. Chairman and Honorable Committee members:

Thank you for your time and attention to this measure of great importance to Kansas homeowners. I am Cal Lantis, President of the Kansas Association of REALTORS®. KAR is a statewide professional trade association for real estate licensees and has a membership of approximately 9,400.

We are an association dedicated to serving the home buying and selling consumer in Kansas. As such, homeowners insurance is an issue central to the real estate transaction. That is why we are supportive of the legislation before you, HB 2174, which would enact important protections to homeowners against unfair and, frankly, unacceptable actions when a single, weather-related claim is made by an insured homeowner.

In past years, the Kansas Insurance Department has testified that it has received numerous complaints about this problem. These were instances where the insured was non-renewed by his or her insurance company as a result of damages sustained by a tornado or other weather-related cause. For a Kansan to be without insurance for submitting a claim for the damage or destruction of his home under weather-related circumstances seems to undercut the very purpose of insurance in the first place.

-more-

House Insurance
Date: 2-8-05
Attachment # 7



785.267.3610
VOICE

800.366.0069
TOLL FREE

785.267.1867
FAX

3644 SW Burlingame Rd
Topeka, Kansas 66611
www.kansasrealtor.com

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Homeowners pay insurance premiums to protect their investment in the case of damages. So when those damages do in fact occur as a result of causes beyond their control, they shouldn't be threatened with possible cancellation.

Thank you, again, to the committee for taking this matter up for consideration and possible action and to the Insurance Commissioner for her leadership on this issue.

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

Memorandum

TO: THE HONORABLE CLARK SHULTZ, CHAIRMAN
HOUSE INSURANCE COMMITTEE

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

RE: HOUSE BILL 2174

DATE: FEBRUARY 7, 2005

Mr. Chairman, Members of the committee: My name is William Sneed and I represent the State Farm Insurance Companies ("State Farm"). State Farm is the largest insurer of home and automobiles in Kansas. State Farm insures one out of every three cars and one out of every four homes in the United States. We appreciate the to appear in opposition to House Bill 2174.

The issues surrounding HB 2174 have been studied numerous times by the Kansas Legislature over the last 11 years. Since 1994, the Kansas Legislature has had six bills dealing with this subject. In fact, after the 1997 Session, a request was proposed to refer the subject to 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 to take other measures. First, notwithstanding the above, we are unaware of any major problem relative to cancellation within the State of Kansas. The department has not provided to my client any verifiable evidence that such a problem exists. Next, in the past the department has discussed cancellations and individuals that have filed complaint on that coverage. After further review it certainly is uncertain as to whether or not such a cancellation was even weather related. Next, we have specific concerns with the bill as written.

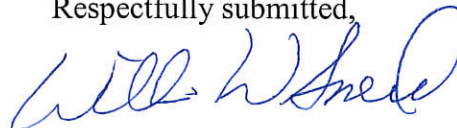
In section 2, the bill states that the company cannot cancel or refuse to renew when such cancellation or refusal is due to a single weather related claim. What is not encompassed by that is that cancellation would be within the policy period but nonrenewal would be at the end of the policy period. The nonrenewal section from a drafting perspective and for a practical application does not make sense. The bill then goes on in lines 30 and 31, that in essence requires companies to stay on a policy for a minimum of two renewals. What happens if a company wishes to leave the market? What this has done is it will force companies to price their products

as substantially higher rates in order to make sure that they can keep the book of business profitable for a minimum of two years. We are uncertain as to why anyone would impose legislation that in essence will increase the cost of homeowners insurance. Next, the statute ignores the fact that there are things an insured can do to prevent or minimize the risk of loss. What if an insured refuses to insert a sump pump or surge protectors or other things that homeowners can do to help minimize losses. Nowhere in the bill provides a requirement back on the insured on those items, which may or may not be appropriate in order to evaluate an insurable interest. Thus, for all of those homeowners who take steps to minimize losses versus those insureds who refuse to do so, they end up paying higher rates for in essence people's inability to appropriately take care of their own property.

We certainly understand people's concern when there is a cancellation or nonrenewal of coverages. However, our citizens enjoy the luxury of procuring insurance on a regularly 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, insureds would be forced to do more extensive underwriting at the front end of a policy, thus causing more delay and inconvenience to the general public. Thus, we believe HB 2174 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 favorably on House Bill 2174.

Respectfully submitted,



William W. Sneed

WWS:pmk

019646 / 032884
WWSNE 1166772

BRAD SMOOT

ATTORNEY AT LAW

800 SW JACKSON, SUITE 808
TOPEKA, KANSAS 66612
(785) 233-0016
(785) 234-3687 (fax)
bsmoot@nomb.com

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206

Statement of Brad Smoot
Legislative Counsel
The American Insurance Association
House Insurance Committee
Regarding 2005 House Bill 2174

February 8, 2005

Mr. Chairman and Members:

On behalf of the American Insurance Association (AIA), we are pleased to have the opportunity to comment on House Bill 2174. 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; 1998 S 422 and 2004 S 339. None of these measures have ever passed any committee in either house.

In general, "exit barriers," like H 2174, deter companies from entering new insurance markets. In other words, the harder it is to get out, the less eager companies will be to get in. H 2174 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, H 2174 seems at best unnecessary and at worst potentially harmful.

For these reasons, we encourage the Committee to reject H 2174.

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Law Offices
GLENN, CORNISH, HANSON & KARNS
CHARTERED
800 SW Jackson - Suite 900
Topeka, Kansas 66612
785-232-0545

TESTIMONY ON HB 2174
February 8, 2005

TO: **House Insurance Committee**

RE: House Bill No. 2174

Mr. Chairman 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, and also on behalf of PCI, the Property Casualty Insurers Association of America, with over 1,000 members in the U.S. writing about 38% of the property-casualty market, last year.

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 a regulatory climate in Kansas that was unnecessarily burdensome would prevent insurers from wanting 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.

Our domestic companies have remained in Kansas through the years, including the last twenty 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,

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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



FARMERS

Kansas State Executive Office
10850 Lowell
Overland Park, Ks. 66210
Bus 913.661.6580
Fax 913.323.6172

February 8, 2005

**Written Testimony on House Bill 2174
House Insurance Committee**

Mr. Chairman and Committee Members:

Thank you for the opportunity to provide written comments explaining our **opposition** to the passage of House Bill 2174.

To begin with, FARMERS Insurance does not cancel or non-renew the homeowner policies of their customers if they file a single storm related claim.

Insurers do not regard the choice to non-renew a customer lightly. Insurers earn profits through retaining, not non-renewing the vast majority of their customers. The costs of acquiring a new policyholder, such as advertising, can only be recovered by the policy remaining with the insurer for an extended period of time. Therefore, it is in the company's best interest to retain as many policyholders as possible and charge them the appropriate premium.

It is also well understood, consumers benefit most when more companies compete to offer the best insurance product, price and service. Mandatory renewal laws, like HB 2174, stifle competition and could create serious concerns for any new insurer that might be considering entering the Kansas marketplace.

As an alternative to this bill, we would instead suggest the Legislature require the Kansas Insurance Department to cease enforcement of the Department's "desk drawer rule" to disapprove any homeowner rate filing that would otherwise allow an insurer to appropriately surcharge homeowner policies for multiple weather related losses.

Respectfully submitted,

Lee Wright, GCA
Governmental Affairs Representative

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Farmers Alliance

Insuring Rural America Since 1888

Cancellation/Single Storm Loss

House Insurance Committee

H.B. 2174

February 8, 2005

Mr. Chairman and Members of the Committee, I appreciate this opportunity to share our views on H.B. 2174.

My name is Rick Wilborn. I am Vice President of Government Affairs for the Farmers Alliance Insurance Companies. 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.

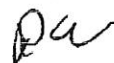
The way the bill is currently written, it severely restricts our ability to manage our book of business. For example, we occasionally will sever our relationship with an agency by canceling their contract. All policies written through that agency are nonrenewed as they expire over time. Some may have 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. As written, we strongly disapprove of H.B. 2174.

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 • Farmers Crop Insurance Alliance, Inc.
Alliance Administrators, Inc. • Alliance Indemnity Company • Alliance Insurance Company, Inc.

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