

Approved: March 12, 2008

Date

MINUTES OF THE HOUSE INSURANCE AND FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 P.M. on March 11, 2008 in Room 527-S of the Capitol.

All members were present except:

Representative Jeff Colyer- excused  
Representative Nile Dillmore- excused  
Representative Mario Goico- excused  
Representative Brenda Landwehr- excused  
Representative Cindy Neighbor- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Bruce Kinzie, Revisor of Statutes Office  
Ken Wilke, Revisor of Statutes Office  
Sue Fowler, Committee Assistant

Conferees appearing before the committee:

Joe Theising National Association of Mutual Insurance Companies  
Larry Magill, Kansas Association of Insurance Agents  
Bob Tomlinson, Kansas Insurance Department  
William Sneed, State Farm Insurance  
Joe Woods, Property Casualty Insurers of America (PCI), Written Testimony  
Rick Wilborn, Farmers Alliance, Written Testimony  
David Hanson, Kansas Association of P&C Companies, Written Testimony  
Lee Wright, Farmers Insurance, Written Testimony  
Brad Smoot, American Insurance Association, Written Testimony  
John Meetz, Kansas Insurance Department

Others attending:

See attached list.

Hearing on:

**SB 560**      **Enacting the property/casualty flex-rating regulatory improvement act**

Melissa Calderwood, Legislative Research Department, provided a brief overview on **SB 560**.

Proponents:

Joe Theising, National Association of Mutual Insurance Companies, (Attachment #1), presented testimony before the committee in support of **SB 560**.

Larry Magill, Kansas Association of Insurance Agents, (Attachment #2), gave testimony before the committee in support of **SB 560**.

Bob Tomlinson, Kansas Insurance Department, (Attachment #3), appeared before the committee in support of **SB 560**.

William Sneed, State Farm Insurance, (Attachment #4), presented testimony before the committee in support of **SB 560**.

Joe Woods, Property Casualty Insurers of America (PCC), (Attachment #5), presented written testimony in support of **SB 560**.

Rick Wilborn, Farmers Alliance, (Attachment #6), presented written testimony in support of **SB 560**.

CONTINUATION SHEET

MINUTES OF THE House Insurance and Financial Institutions Committee at 3:30 P.M. on March 11, 2008 in Room 527-S of the Capitol.

David Hanson, Kansas Association of P&C Companies, (Attachment #7), presented written testimony in support of **SB 560**.

Lee Wright, Farmers Insurance, (Attachment #8), presented written testimony in support of **SB 560**.

Brad Smoot, American Insurance Association, (Attachment #9), presented written testimony in support of **SB 560**.

Hearing closed on **SB 560**.

Hearing on:

**SCR 1616** **Urging the study of the design and implementation of an electronic motor vehicle financial security verification system.**

Melissa Calderwood, Legislative Research Department, provided a brief overview on **SCR 1616** and an update of the Interim Study.

Proponent:

John Meetz, Kansas Insurance Department, (Attachment #10), gave testimony before the committee in support of **SCR 1616**.

Hearing closed on **SCR 1616**.

Representative Grant moved without objection to accept the minutes of March 6 and March 10, 2008.

Next meeting will be Wednesday, March 12, 2008, 3:30 PM, in Room 527-S.

Meeting adjourned at 4:40 PM..



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122 C Street N.W., Suite 540, Washington, D.C. 20001  
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March 10, 2008

The Honorable Clark Shultz  
Chair, House Insurance & Financial Institutions Committee  
Kansas State Capital, Room 141-W  
300 SW 10<sup>th</sup> Street  
Topeka, KS 66612

Dear Chairman Shultz,

Thank you for this opportunity to provide PROPONENT testimony on Senate Bill 560, which establishes the *Property/Casualty Flex-Rating Regulatory Improvement Act*.

Founded in 1895, NAMIC is a full-service national trade association with more than 1,400 member companies that underwrite over 40 percent of the property/casualty insurance premium in the United States. In Kansas, 149 member companies, including 16 domiciled companies, underwrite property/casualty business.

NAMIC is a strong proponent of a reformed system of state regulation of insurance through the passage of regulatory modernization laws such as the *Property/Casualty Flex-Rating Regulatory Improvement Act*. NAMIC is also a strong proponent of reformed market conduct and financial solvency regulation to protect the interests of consumers and policyholders. Our ultimate goal is to achieve a regulatory system that befits a mature industry operating in a highly competitive marketplace.

We believe the primary barrier to fundamental reform of the property/casualty industry is price regulation of insurance rates. This belief is the cornerstone of NAMIC's agenda for change in the states. Passage of rate modernization laws benefits consumers with respect to price and availability of insurance products. Insurance is an industry where less government control has been tested and found to be successful. To that end, we continue to work in partnership with the National Conference of Insurance Legislators (NCOIL), the National Conference of State Legislators (NCSL) and our other industry colleagues to secure passage of regulatory modernization laws in as many states as possible. Since 2003, 18 states have enacted some form of regulatory modernization.

Senate Bill 560 is the bi-product of a unanimous recommendation made last year by Kansas Insurance Department Fee Modernization and Rating Laws Task Force. The task force was established to study personal lines regulatory modernization and other topics. Senate Bill 560 would adopt the NCOIL *Flex-Rating Regulatory Improvement Model Act*.

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The NCOIL flex-rating model creates a 12 percent flex band for personal lines of insurance. The model was overwhelmingly adopted by NCOIL in 2003 and is viewed as an interim step toward rate regulation based on an open competition system.

Currently, eight states have flex-rating laws. Flex-rating allows insurers to increase or decrease a rate within the flex-band without approval from regulators. Regulators can still review rate filings but cannot reject an increase as excessive as long as the market remains competitive.

According to a recent report by the Insurance Information Institute, "Flex rating allows insurers to respond quickly to loss trends and other market conditions. Research suggests that in states with a flex rating system rates decline."

Enactment of Senate Bill 560 will benefit consumers by encouraging more insurers to enter the market, thus enhancing competition. Furthermore, passage of this bill will send a strong message to Congress that states can improve and modernize the state system of insurance regulation.

NAMIC commends this legislature for enacting commercial lines reforms in 2006. Passage of Senate Bill 560 is the next logical step in the process toward ensuring that Kansas insurance markets remain competitive.

NAMIC respectfully requests favorable approval of Senate Bill 560 by the House Insurance and Financial Institutions Committee.

Again, thank you for this opportunity to express NAMIC's views on this important issue. If you have questions or require further information, please do not hesitate to contact me at (614) 262-4798 or via e-mail at [jthesing@namic.org](mailto:jthesing@namic.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Thesing". The signature is fluid and cursive, with a large initial "J" and "T".

Joe Thesing  
Director-State Affairs

Kansas Association of Insurance Agents



**Testimony on Senate Bill 560**  
**Before the House Insurance & Financial Institutions Committee**  
**By Larry Magill**  
**March 11, 2008**

Thank you mister chairman and members of the committee for the opportunity to appear today in support of Senate Bill 560. My name is Larry Magill and I represent the Kansas Association of Insurance Agents. We have approximately 425 member agencies across the state and another 100 branch offices that employ a total of approximately 2,500 people. Our members write roughly 70% of the business property and liability insurance in Kansas and 35% of the personal insurance. Independent agents are free to represent a number of different insurance companies.

Modernization of Kansas' rating laws has been something we have supported for some time when we modernized commercial insurance rate regulation. We have a healthy, competitive insurance market in Kansas for all the major lines of insurance including personal lines and a competitive market will self-regulate prices. SB 560 is actually a compromise between complete rate deregulation and the status quo. It provides a flex-rating approach that allows insurers to change their personal lines rates once per year either up or down 12%.

We would like to ask for two amendments to SB 560. The first would add a definition of personal lines of insurance. We would suggest that you use the definition of personal lines contained in the credit scoring bill, 2007 Supp K.S.A. 5103 (l) attached.

The intent of this bill all along has been to begin deregulation of personal lines, since it was excluded from the commercial lines deregulation bill of a few years ago. At that time the Department promised to study the need for also deregulating personal lines and this bill is an outgrowth of the study authorized last year in SCR 1603's Task Force. Some members of that task force would have liked it to recommend complete deregulation but most, including our association, would like to take an intermediate step in the form of flex rating.

The second amendment we ask you to make is to add back the cap on rate decreases in any one filing of 12% that was struck in a Senate floor amendment. This is important to prevent predatory pricing by the largest personal lines insurers that could have the effect of driving competitors from the market. While we understand that some would argue for giving the consumer the lower cost, even if it is only temporary, we don't think that is wise regulatory policy. This is known as buying market share and always is followed by increases in rate. There are some carriers that are clearly dominant and would have the resources to drive other companies away. No state to our knowledge has taken the cap on decreases off.

You have heard this many times, and will doubtless hear it many more times. But we see this as necessary to avoid federal regulation of insurance. A more open, competitive market that is allowed to easily adjust rates is a major step toward more efficient state regulation of insurance and that will stave off a federal solution.

We would be happy to answer questions or provide additional information.

## Kansas Legislature

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**40-5103****Chapter 40.--INSURANCE****Article 51.--INSURANCE SCORE ACT**

**40-5103. Definitions.** As used in this act:

(a) "Adverse action" means any of the following in connection with the underwriting of personal insurance:

- (1) A denial or cancellation of coverage;
- (2) anything other than the best possible rate; or
- (3) a reduction or other adverse or unfavorable change in the terms of coverage of any insurance regardless of whether such insurance is in existence or has been applied for.

(b) "Affiliate" means any company that controls, is controlled by, or is under common control with another company.

(c) "Agent" shall have the meaning ascribed to it in subsection (k) of K.S.A. 2007 Supp. 40-4902, and amendments thereto, unless the context requires otherwise.

(d) "Applicant" means an individual who has applied to an insurer to be covered by a personal insurance policy.

(e) "Commissioner" means the commissioner of insurance and any authorized designee of the commissioner.

(f) "Consumer" means an insured whose credit information is used or whose insurance score is calculated in the underwriting or rating of a personal insurance policy. "Consumer" also includes an applicant for a personal insurance policy.

(g) "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 consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(h) "Credit information" means any credit related information derived from a credit report, found on a credit report itself, or provided on an application for personal insurance. Credit information shall not include any information which is not credit related, regardless of whether such information is contained in a credit report or in an application or is used to calculate an insurance score.

(i) "Credit report" means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing or credit capacity which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement.

(j) "Department" means the insurance department established by K.S.A. 40-102 and amendments thereto.

(k) "Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based, in whole or in part, on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured.

(l) "Personal insurance" means private passenger automobile, homeowners, motorcycle, mobile homeowners and non-commercial dwelling fire insurance policies and boat, personal water craft, snowmobile and recreational vehicle policies. For the strict purposes of this act, personal insurance shall also include individually underwritten policies of farmowners.

**History:** L. 2003, ch. 88, § 4; July 1.



# Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

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## TESTIMONY ON SB 560

### HOUSE INSURANCE AND FINANCIAL INSTITUTIONS March 11, 2008

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the Committee today. My name is Bob Tomlinson the Assistant Commissioner of Insurance for the State of Kansas and I am here to speak to Senate Bills 560. The Kansas Insurance Department supports the measures proposed in SB 560. The bill will create a flexible regulatory environment that should increase competition among insurance companies in Kansas. Most importantly, the current "soft market" provides an ideal setting to implement such a reform.

#### **Current Procedure**

First, let me give you a little perspective on where Kansas stands compared to other states regarding P&C rating law. The Kansas Insurance Department currently regulates the rates of personal lines insurance products on a "file and use" system. This allows insurance companies to use their new rates after filing them with the Kansas Insurance Department without specific approval. However, the Insurance Department does retain the right to deny the rate change on certain grounds as long as it is within 30 days of the filing.

When comparing this filing system with other states, Kansas falls in the plurality, while only a handful of states actually fall into the "flex rating" mechanism that is being proposed in SB 560.

#### **SB 560**

SB 560 was written to create some degree of flexibility in rating regulation without eliminating it altogether. The bill would allow rates for personal lines insurance to be adjusted by 12% without any approval from the Kansas Insurance Department. Though this procedure has only been adopted by very few states it has been regarded by the industry as an innovative compromise that would increase speed to market. Frankly, we at the Insurance Department agree with this assertion. This appears to be an appropriate time for this approach because we have a healthy market and competition should keep rates reasonable.

Our administration has made every effort to keep modernizing and streamlining our operations whenever possible. For example the Insurance Department will soon be requiring all filings to be done electronically with the System for Electronic Rate and Form Filing (SERFF). We have

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also made it a priority to adhere to the 30-day time frame in the Kansas "file and use" law. But ultimately our responsibility is to the consumers of Kansas who rely on us to maintain a quality insurance marketplace through limited, sound regulation.

Thank you for the opportunity to appear before you today. I would now stand for any questions.

Bob Tomlinson  
Assistant Commissioner of Insurance

# Polsinelli

Shalton | Flanigan | Suelthaus PC

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## Memorandum

**TO:** THE HONORABLE CLARK SHULTZ, CHAIR  
HOUSE INSURANCE AND FINANCIAL INSTITUTIONS COMMITTEE

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

**RE:** S.B. 560

**DATE:** MARCH 11, 2008

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for the State Farm Insurance Companies. State Farm is the largest insurer of homes 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 are pleased to stand in support of S.B. 560.

State Farm strongly advocates competitive rating laws and supports S.B. 560, which implements the National Council of Insurance Legislators ("NCOIL") insurance modernization model laws.

During the 2005 legislative session, my client requested the introduction of H.B. 2184, which is the genesis of S.B. 274. We have been working with the Kansas Legislature, and in particular, the Kansas Insurance Department, in order to move forward on this vitally important piece of legislation. After the introduction of H.B. 2174, my client agreed to meet with the Insurance Department in an attempt to resolve their opposition to that particular piece of legislation. My client met on numerous occasions with the Insurance Department over the next 18 months (along with other industry members), but we were unable to come to an agreement on legislation that the Department withdraw its opposition to. Thus, during the 2007 legislative session, the property and casualty industry requested the introduction of S.B. 274. After taking testimony, the Chair of the Senate Financial Institutions and Insurance Committee recommended that the matter be studied during the interim, which the Chair of the House Insurance and Financial Institutions Committee participated in during the summer and fall of 2007. The outcome of that task force was the recommendation, albeit not unanimous, for the introduction of the NCOIL flex rating bill. Thus, at the beginning of this legislative session, my client requested and was granted the introduction of S.B. 560, which represents the NCOIL flex rating model law.

House Insurance  
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Attachment # 4

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555 S. Kansas Avenue, Suite 101  
Topeka, Kansas 66603-3423  
Telephone: (785) 233-1446  
Fax: (785) 233-1939

My client believes that it is to the benefit of the consumer to create a highly competitive insurance market placing maximum reliance on competitive forces to assure reasonable rates and quality service. Under S.B. 560, an insurer would be able to develop rates, start using them, and then file the rates with the Insurance Department for personal lines, but only if the overall increase is less than 12%.

My client believes the time is now to remove these antiquated barriers to free competition. Rate regulation increases uncertainties, and therefore increases the cost of capital for insurers, thus discouraging capital commitment and making ultimate rate levels higher. Rate regulation can undermine fairness by forcing better risks to subsidize worse risks. Further, the underwriting cycle is actually exacerbated by delaying unnecessary rate increases or decreases. Finally, the natural competitiveness of the insurance industry is dampened by rate regulation, thereby limiting consumer choice.

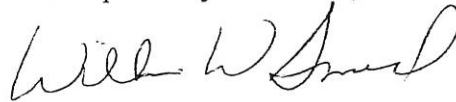
It is also important to note that this bill still allows for the Kansas Insurance Department to retain general oversight over rate regulation. The Insurance Department has a multitude of tools in order to make sure that the marketplace is working fairly and nondiscriminatorily, and thus benefitting the consumer.

Since the passage of S.B. 560 by the Kansas Senate, an issue has been raised as to what lines of property and casualty coverages would be affected by S.B. 560. It has always been the intent of the proponents of the bill that S.B. 560 would apply to personal lines (as opposed to "commercial lines"). To clarify the issue, I have attached a balloon amendment that specifies that S.B. 560 applies to personal lines and have cross-referenced a personal lines definition.

Based upon the foregoing, we would urge the Committee to act favorably on S.B. 560.

Again, we appreciate the opportunity to present testimony and would be happy to answer questions.

Respectfully submitted,



William W. Sneed

WWS:kjb

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2008

SENATE BILL No. 560

By Committee on Financial Institutions and Insurance

2-5

12 AN ACT establishing the property/casualty flex-rating regulatory im-  
13 provement act; pertaining to personal lines insurance written on risks  
14 in this state by any insurer authorized to do business in this state.  
15

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

for personal insurance ]

17 Section 1. Notwithstanding the requirements of K.S.A. 40-952 and  
18 40-955, and amendments thereto, a filing made by an insurer under this  
19 section that provides for an overall statewide rate increase ~~or decrease~~  
20 no more than 12% [*or a decrease in any amount*] in the aggregate for  
21 all coverages that are subject to the filing may take effect the date it is  
22 filed. The 12% limitation shall not apply on an individual insured basis.  
23 No more than one rate filing may be made by an insurer pursuant to the  
24 expedited process provided in this section during any period of 12 con-  
25 secutive months, unless the combination of such rate filing and all other  
26 rate filings made by such insurer within the preceding period of 12 con-  
27 secutive months does not result in an overall statewide increase or de-  
28 crease of more than 12% in the aggregate for all coverages that are subject  
29 to such filing.

30 Sec. 2. Any rate filing which falls outside the limitations specified in  
31 section 1, and amendments thereto, shall be subject to K.S.A. 40-952 and  
32 40-955, and amendments thereto, unless such filing is otherwise exempt  
33 pursuant to another provision of Chapter 40 of the Kansas Statutes An-  
34 notated and acts amendatory thereof and supplemental thereto.

35 Sec. 3. (a) Any filing submitted pursuant to section 1, and amend-  
36 ments thereto, shall be deemed to comply with state law unless the com-  
37 missioner determines that the filing is inadequate or unfairly discrimi-  
38 natory. If the commissioner determines that the filing is inadequate or  
39 unfairly discriminatory, the commissioner shall issue a written order spec-  
40 ifying in detail:

41 (1) Each provision of Chapter 40 of the Kansas Statutes Annotated,  
42 and acts amendatory thereof and supplemental thereto, the insurer has  
43 violated;

1 (2) the reasons the filing is inadequate or unfairly discriminatory; and  
 2 (3) stating a reasonable future date on which the filing shall be con-  
 3 sidered no longer effective.

4 (b) If the commissioner issues an order pursuant to this section more  
 5 than 30 days after the date on which the commissioner received the rate  
 6 filing, the effect of such order shall be prospective only and shall not  
 7 affect any contract issued or made before the effective date of such order.

8 Sec. 4. Within the limitation specified in section 1, and amendments  
 9 thereto, no rate increase may be implemented with regard to an individual  
 10 existing policy, unless such increase is applied at the time of a renewal or  
 11 conditional renewal of an existing policy and the insurer mails or delivers  
 12 to the named insured, at the address shown in the policy, a written notice  
 13 that clearly and conspicuously discloses its intention to change the rate,  
 14 at least 30 days in advance of the end of the insured's policy period. A  
 15 notice of renewal or conditional renewal that clearly and conspicuously  
 16 discloses the renewal premium applicable to the policy shall be deemed  
 17 to comply with this section.

18 Sec. 5. For purposes of this act:

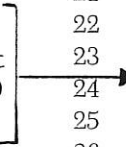
19 (a) "Commissioner" means the commissioner of insurance.

20 (b) "Unfairly discriminatory" means *[shall have the meaning as-*  
 21 *cribed to it in K.S.A. 40-953 and amendments thereto. The term*  
 22 *"unfairly discriminatory"] includes* a rate for a risk that is classified  
 23 in whole or in part on the basis of race, color, creed or national origin.

24 Sec. 6. Sections 1 through 6, and amendments thereto, shall be  
 25 known and may be cited as the property/casualty flex-rating regulatory  
 26 improvement act.

27 Sec. 7. This act shall take effect and be in force from and after its  
 28 publication in the statute book.

(c) "Personal insurance" shall  
 have the meaning ascribed to it  
 in K.S.A. 2007 Supp. 40-5103(1)  
 and amendments thereto.





## KANSAS ANALYSIS OF SENATE BILL 560

Kansas currently has a file-and-use insurance rate regulatory law for personal lines business, whereby rates must be filed 30 days before the proposed effective date. A file-and-use law with a prescribed waiting period is sometimes considered to be “non-competitive” in the sense that rates are still subject to review and possible disapproval after they have been put into use. This has been the case in Kansas, as administration of this law makes it more similar to a prior approval state. As such, companies are faced with an additional underwriting risk since they are concerned that rates may still be disapproved; they are hesitant to lower rates for fear that they will not be able to increase them when needed later.

Senate Bill 560 proposes that insurance companies be allowed to use personal lines rates on the date they are filed, as long as the overall statewide rate increase is within a 12 percent band. The present file-and-use law will continue to apply to all other rates that fall above this limitation. Under this proposal, rate adjustments falling in this band would be primarily influenced by competitive forces that enable insurance rates to be consistent with underlying costs. Instead of permitting the state to intervene to achieve what it believes is a proper balance between adequate and excessive rates, insurers would be able to react much more quickly to changing loss trends and implement rate increases or decreases in a timely fashion, keeping the market more stable and strong. In other words, any political pressures are removed for rate changes up to 12 percent, ensuring greater price equity among insurance-buying consumers.

The proposed flex-rating law by no means implies that the regulators have given up complete oversight of insurance companies. There are other ways, such as licensing requirements, solvency regulation, market conduct surveillance and monitoring consumer complaints by which the state insurance department can devote more of its resources to ensure fair, nondiscriminatory markets.<sup>1</sup>

The proposed 12 percent rating band serves as a threshold. With a flex-rating law, it is sometimes presumed that companies will seize the opportunity to implement large rate increases near the threshold, knowing that these rates can bypass regulatory review. This is clearly not the case, as insured drivers in states that went to greater rate competition saw only small rate increases and even decreases after implementation of flex-rating.

The following table sets forth leading carriers’ auto and homeowners rate changes implemented in states with flex-rating laws; these changes are quite a bit lower than the established maximum band

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<sup>1</sup> Among its many duties, the Kansas Insurance Department (DOI) oversees insurer and producer activities to protect consumer interests, ensures that policies comply with state law, and resolves any disputes between consumers and insurers. Using financial statements regularly submitted by insurers, the DOI evaluates their accounting methods and procedures and conducts periodic examinations to ensure their financial soundness.

beyond which insurance department approval is required, demonstrating that insurers do not try to take advantage of a more competitive system with relatively high flex limits (Table 1).

<b>Table 1</b>		
<b>Rate Activity of Major Insurers In States With Flex-Rating Laws</b>		
<b>State (Band)</b>	<b>Major Insurance Company</b>	<b>Action (line of business)</b>
Kentucky (25%)	Kentucky Farm Bureau	+6.6% (auto) +10.0% (homeowners)
	State Farm	+6.7% (homeowners) +0.5% (auto) -5.3% (auto)
Louisiana (10%)	USAA Group	-2.2% (auto)
	Farmers	+6.8% (auto)
	State Farm	-2.1% (auto)
Pennsylvania (10%)	Erie	+7% (auto)
	Allstate	+2.5% in Philadelphia; +6.8% in rest of state (auto)
Texas (30%)*	State Farm	-2.2% (auto)
	USAA	-8.6% (auto)
* Texas has since converted to a file-and-use rating system, effective December 1, 2004.		
Sources: Kentucky: <i>The Courier-Journal (Louisville)</i> - June 22, 2003 and June 8, 2004 Louisiana: <i>The Baton Rouge Advocate</i> - January 23, 2004, March 4, 2004, and January 21, 2005 Pennsylvania: <i>Erie Times-News</i> - January 4, 2004 and <i>The Philadelphia Inquirer</i> - August 9, 2004 Texas: <i>San Antonio Express-News</i> - June 12, 2004		

In addition, following South Carolina's enactment of a 7-percent flex-rating law (eff. March 1999), six leading auto insurance companies implemented rate reductions (one as large as 10 percent) or no rate change at all. In a March 2004 letter, Dean Kruger, the former chief actuary at the insurance department, wrote, "(rates) dropped and this indicates that the competitive marketplace is the more effective in controlling rate levels." These sentiments were echoed by former Louisiana insurance commissioner, J. Robert Wooley, who claimed that policyholders benefited when his state converted to flex-rating, with a 10 percent band: "Insurers aren't as reluctant to reduce rates when business is good because they know they can also raise rates without incurring a political battle." After the change, State Farm Mutual Auto Ins. Co. policyholders received an average \$20 rate reduction, or an overall cost savings of \$19.3 million.<sup>2</sup>

Going to a flex-rating law that allows rates to be used when filed would result in cost benefits for consumers. These lower rate increases or decreases would keep insurance rates lower than elsewhere. More competition-based rating systems clearly do not cost the insurance-buying public more money.

<sup>2</sup> *The Baton Rouge Advocate*, January 21, 2005

As an illustration, 10 states in the nation currently have a personal auto<sup>3</sup> use-and-file or no-rating law that enables insurance companies to implement all of their rates immediately, without state approval.<sup>4</sup> The group of states with the most competitive types of rate regulation is found to have lower personal auto insurance prices than the group of states with more restrictions. On average, insured drivers in states with the least amount of price controls pay 13.7 percent less for auto insurance than drivers in states with file-and-use laws (i.e., \$709 – use-and-file or no-file vs. \$822 – file-and-use)<sup>5</sup> (Table 2). (Although S.B. 560 would not amend Kansas’ rating law to use-and-file, it is nevertheless important to note the cost benefits inherent in rating laws with the least amount of restrictions.)

<b>Table 2</b> <b>Drivers in States with Fewer Price Controls Pay Lower Rates</b> <b>Than Drivers in States with More Price Controls</b>	
Type of Rating Law	Average Auto Insurance Expenditure – 2005
File-and-Use	\$821.77
Use-and-File or No-File	\$709.34
<i>States are classified according to their personal auto rating law in 2005.</i>  <i>File-and-Use: AR, CO, DC, FL, IN, KS, ME, MD, MI, MN, MT, NH, OH, OR, SD, TX, and VA</i> <i>Use-and-File or No-File: AZ, ID, IL, IA, MO, OK, UT, VT, WI, and WY</i>  <i>Nebraska became a file-and-use in mid-2005 and is therefore not included in the above comparison.</i> <i>Source: PCI, based on NAIC 2004/2005 Auto Insurance Database Report, 2007</i>	

Competitive sufficiency tests also show that Kansas’ personal lines insurance markets are competitively sound. More than 160 carriers, none which are dominant,<sup>6</sup> now transact auto insurance business here. Furthermore, companies are able to enter and exit the state with little difficulty. However, despite the adequate number of insurers conducting business here, there has been a decline in personal auto companies over the years (Figure 2).<sup>7</sup> An examination of why companies have been leaving is beyond the scope of this analysis, but one reason for their withdrawal may be frustration in having to operate under less than optimal rate regulatory conditions.

<sup>3</sup> The type of rating law varies according to the product line. Personal auto is fairly representative of the way rates are regulated in other lines, even though there are variations in some states with respect to auto and homeowners insurance, as well as commercial lines of business.

<sup>4</sup> Illinois has no rating law at all, as it does not allow for disapproval of rates, but it is classified as a use-and-file state since companies must make informational filings.

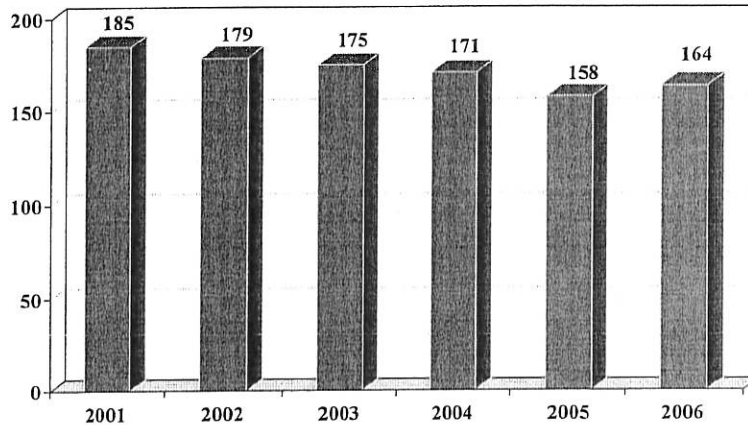
<sup>5</sup> NAIC, *2004/2005 Auto Insurance Database Report, 2007*; note that states with prior approval laws and other more restrictive laws have higher personal auto insurance rates than states with file-and-use, use-and-file or no-rating laws.

<sup>6</sup> Based on the Herfindahl-Hirschman Index used by the U.S. Department of Justice in measuring competition, Kansas’ personal lines markets are considered “unconcentrated.”

<sup>7</sup> NAIC database



**Figure 1**  
**Trend in Kansas**  
**Personal Auto Insurers**



A move to a flex-rating law would encourage more insurers to enter or return to the market, providing consumers of the state with a greater choice of companies. Although structural evidence of a healthy competitive environment in Kansas does exist, it could be made stronger by moving toward flex-rating as proposed in S.B. 560.

Kansas' current file and use rating law can be improved to work more effectively for the benefit of both consumers and insurers. A 12 percent flex band applicable to aggregate statewide increases or decreases would enable companies to respond in a timely fashion to changing loss experience and use rates immediately upon filing. In addition, more insurers would be encouraged to enter the state and offer policyholders a wider selection of coverages and products.

In conclusion, the nation's insurance regulatory trend, which has been driven in part by state legislators, is aimed toward greater rate modernization. The National Conference of Insurance Legislators and American Legislative Exchange Council, both comprising insurance lawmakers throughout the country, advocate open competition. Modernization of insurance rates is a key element to preserving state regulation of insurance, and state legislators can play a key role in making sure that modernization is implemented quickly and efficiently. The PCI remains committed to working with legislators and regulators to enhance and improve the state regulatory system to foster a healthy and competitive insurance marketplace.

*Property Casualty Insurers Association of America (PCI) is a trade association consisting of more than 1,000 insurers of all sizes and types, and representing 40 percent of the total property/casualty insurance business and 49 percent of the total personal lines business in the nation. In Kansas, PCI members represent 48 percent of the personal lines markets.*

# FarmersAlliance

Insuring Rural America Since 1888

March 11, 2008

To: Honorable Clark Shultz  
From: Richard E. Wilborn  
Re: Senate Bill 560

Thank you for this opportunity to express support for S.B. 560, which enacts and amends sections of the Kansas Code relating to the regulation of fire, property, and casualty insurance rate and rate filings.

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

Farmers Alliance Mutual Insurance strongly supports a "modernized" system of state insurance regulation. We believe that the rate and rate filing changes called for in S.B. 560 will be of great benefit to Kansas insurance markets and are long overdue. Furthermore, enactment of S.B. 560 would send a strong message to Congress that states can improve and modernize the state system of insurance regulation. S.B. 560 is based on the National Conference of Insurance Legislators (NCOIL) Property/Casualty Insurance Modernization Act, because it calls for the elimination of prior approval of rate and rate filing, within certain limits for personal lines of insurance.

Insurance is an industry where less price control has been tested and found to be successful. In 1969, the State of Illinois repealed prior approval and adopted a use-and-file system of rate regulation for personal lines of insurance, a system that is still in effect today. Illinois consumers enjoy stable rates, ranking in the middle of all states in average expenditures for insurance. Illinois has a low residual market indicating affordability and availability of insurance products.

Over the past several years, nine states have adopted some form of regulatory modernization. In 2003, modernizing legislation was adopted in Nebraska (commercial lines), New Hampshire (commercial lines), New Jersey (auto) and Louisiana (personal lines). In 2004, modernizing legislation was adopted in Massachusetts (commercial),

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 Indemnity Company • Alliance Insurance Company, Inc.

House Insurance  
Date: 3-11-08  
Attachment # 6

March 11, 2008

Page 2

Oklahoma (personal lines), Rhode Island (personal lines), South Carolina (homeowners) and South Dakota (personal and commercial lines). Currently, 18 states observe prior approval, 23 states observe file-and-use and 9 states observe use-and-file systems of rate regulation. (Attached is a compilation of rate filing requirements by state, provided by PCIAA.)

In 2007, under the purview of SCR 1603, the Kansas Insurance Department established the Kansas Insurance Department Fee Modernization and Rating Laws Task Force. The task force included legislators, consumer representatives, insurance company representatives and insurance regulators. The task force voted to adopt the NCOIL Model, such as S.B. 560.

Now is the time to take the first step and adopt S.B. 560. Over time, the progress can be measured and the next step of a use-and-file, similar to Illinois, should be implemented.

Thank you for your consideration.

Sincerely,

Richard E. Wilborn, CPCU  
Vice President, Government Affairs

Attachments:



## State Filing Laws Quick Reference

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Alabama	PA D 30 E 30	PA D 30 F&U some cases	Medical Malpractice PA  Other Lines F&U	Med. Mal. PA  Other Lines w/ 10% or more incr. PA  Other Lines w/incr. < 10% F&U
Alaska	PA 30 D 30 E 30	Increase or Decrease < 10% when combined with any other filing(s) in preceding 12 months F&U 1  Increase or Decrease > 10% when combined with any other filing(s) in preceding 12 months F&U 30 E 15	PA 30 D 30 E 30  Surety, Specially- rated Inland Marine NF	All except Medical Malpractice Increase or Decrease < 10% when combined with any other filing(s) in preceding 12 months F&U 1  All except Medical Malpractice Increase or Decrease > 10% when combined with any other filing(s) in preceding 12 months F&U 30 E 15  Medical Malpractice PA D 15 E 15 Aircraft NF
Arizona	All except Inland Marine PA 30 D 30 E 15  Inland Marine NF 1	U&F 30  Inland Marine NF	All except Marine, Aircraft, Title PA 30 D 30 E 15   Aircraft, Marine, NF 1  Title F&U	All except Marine, Aircraft, Title U&F 30  Marine, Aircraft NF  Title F&U 30 E 15
Arkansas	PA 30 D 30 E 30	F&U 20	PA 30 D 30 E 30  Exempt Lines NF 1	Prof. Liab. F&U 20  Employers Liab. F&U 30  Other Lines NF

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
California	Forms w/rate impact PA D 60	PA D 60 or 180	Forms w/rate impact PA D 60	Credit, Fin'l. Guar., Mort. Guaranty F&U
	Forms with no rate impact NF	Auto Class Plan PA A 90	Forms with no rate impact NF	Title F&U 30
				ECP, Ocean Marine NF
				Other Lines PA D 60 or 180
Colorado	Auto F&U 31	F&U	Claims-made Liab., Credit, Commercial Auto with Personal Endorsement F&U 31	F&U
	Other Lines NF		Other Lines NF 1	
Connecticut	F&U	Auto Increase & Decrease ≤ 6% when combined with any other filing(s) in preceding 12 months F&U	Fidelity, Surety, Guaranty Bonds PA	Med. Mal. for some medical professions Increase > 7.5% PA 60
		Increase & Decrease > 6% when combined with any other filing(s) in preceding 12 months PA D 30 E 30	Aircraft NF 1	Increase < 7.5% F&U
		Other Lines F&U	Other Lines F&U	Any Decrease F&U
				Aircraft NF 1
Delaware	F&U	F&U	F&U	F&U
				ECP NF 1
District of Columbia	PA 60	F&U 45	PA 60	F&U 45
Florida	PA D 30 E 15	Auto F&U 60 Or U&F 30	PA D 30 E 15	Aircraft, Inland Marine NF
		Other Lines F&U 90 Or U&F 30	Aircraft NF	Other Lines F&U 90 Or U&F 30
Georgia	PA D 90 E 90	Auto PA D 45 E 55	Most Lines PA D 90 E 90	Increase F&U 45
		Other Lines Increase F&U 45 Decrease F&U 1	Ocean Marine, Surety Bond, Specially Rate Inland Marine and Manuscript Forms NF	Decrease F&U 1
				Aircraft NF 1
Hawaii	Auto PA 30	PA D 30 E 15	Auto PA 30	PA D 30 E 15
	Other Lines F&U 1		Other Lines F&U 1	

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Idaho	F&U 1	U&F 30	F&U 1	U&F 30
Illinois	Group Inland Marine PA	Auto, DF, HO U&F 10	Group Inland Marine PA	Medical Malpractice, Group Inland Marine F&U
	Other Lines F&U 1	Group Inland Marine	Other Lines F&U 1	Taxicab Auto, Liquor Liab. U&F 10
				Aircraft NF
			Other Lines with no rate change NF	
			Other Lines Increase or Decrease U&F 10	
Indiana	F&U 1	F&U 1 Or F&U 20	F&U 1	F&U 1 Or U&F 30
				Aircraft, some Inland Marine NF
Iowa	PA D 30	U&F 15	PA D 30	PA D 30 E 15
			Aircraft, some Manuscript forms NF	Aircraft, some Manuscript policies NF
Kansas	F&U 30	F&U 30	Forms for the basic coverage required by K.S.A. 40-3401 et seq PA D30	Com'l. Lines except Farm, Crop, ECP, Aircraft F&U
			ECP NF	Surety, Fidelity, Boiler & Machinery, Employers' Liab., Credit, Aircraft, ECP NF 1
			Other Lines F&U	

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Kentucky	PA D 60 E 30	Increase or Decrease ≤ 25% within any territory within a 12- month period U&F 15  Increase or Decrease > 25% within any territory within a 12- month period PA D 30 E 30	PA D 60 E 30	Med. Mal., Livestock, Equine, Pet, Auto Guaranty, Home Warranty  Increase or Decrease ≤ 25% within any territory within a 12- month period U&F 15  Increase or Decrease > 25% within any territory within a 12- month period PA  Title F&U  Other Lines NF 1  Rules triggering flex barriers PA  Other rules U&F 15
Louisiana	PA D 45 E 15  UM PA	PA or Rate Change ≤ 10% within 12-month period F&U 30  Rate Change > 10% PA D 45  Rules with no rate impact PA	PA D 45 E 15  UM PA	Annual premium < \$10,000 PA 45  Annual premium > \$10,000 F&U  Rules with no rate impact PA
Maine	PA 30 D 30 E 30	F&U 30 E 60  Inland Marine NF 1	PA 30 D 30 E 30  Surety, ECP NF 1	F&U 30 E 60  Inland Marine, ECP NF 1
Maryland	PA D 30 E 60  Some Classes of Inland Marine NF	F&U (30 encouraged)  Some Classes of Inland Marine NF	PA D 30 E 60  Aircraft, ECP, Some Inland Marine NF	Med. Mal., Fidelity, Surety, Title PA D30 E 30  Other Lines F&U  Aircraft, Some Classes of Inland Marine NF

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Massachusetts	PA D 30 E 30	Auto State Established	PA D 30 E 30	Auto F&U 45
		Auto Deviation PA 30		Medical Malpractice F&U 15 E 90
		Other Lines F&U 15 E 30		Exempt Inland Marine NF
				Other Lines F&U 15 E 30
Michigan	PA D 30	F&U 1	Commercial, Auto, Credit Property/Casualty PA D 30	F&U 1  Aircraft NF
			Other Lines NF 1	
Minnesota	PA D 60 E 60	F&U 1	Prof. Liab., Crop Hail, Title, Credit Property, Farm PA D 60 E 60	Prof. Liab., Crop Hail, Title, Credit Property F&U 1  Other Lines NF 1
			Other Lines NF 1	
Mississippi	PA D 30 E 30	PA D 30 E 30	PA D 30 E 30	PA 30 D 30 E 30
		Inland Marine NF	Aircraft, Inland Marine NF	Aircraft, Inland Marine NF
Missouri	F&U 1	U&F 10	U&F 10	Casualty Rate Change > 25% PA 60
				Lesser Casualty Changes and Other Lines U&F 10
Montana	PA 60	F&U	Surety, Manuscript, Ocean Marine, Foreign Trade NF 1	F&U  Ocean Marine, Aircraft, Surplus Lines NF 1
			Other Lines PA 60	
Nebraska	F&U	F&U 30	Medical Malpractice PA D 30 E 30	Medical Malpractice PA D 30 E 30
		Inland Marine not written according to manual rates NF 1	Financial Guaranty, Ocean Marine, Surety NF 1	Financial Guaranty, Ocean Marine, Surety, Inland Marine not written according to manual rates NF 1
			Other Lines F&U	Other Lines F&U



State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Nevada	PA	PA D 60	PA	Med. Mal., Surety, Credit PA D 60  Title PA D 30  Other Lines NF 1
New Hampshire	PA D 30 E 30	F&U 30	Title U&F 30  Ocean Marine, ECP NF  Other Lines PA D 30 E 30	In competitive market U&F 30 In non-competitive market PA 30  ECP, Fin'l. Guar., Employment Practices Liab., Com'l. Inland Marine not written per manual rates, D&O Liab., Boiler and Machinery, Com'l. Credit NF
New Jersey	PA	Auto Overall change >7% or any single coverage >10% PA  Auto Overall change ≤ 7% or any single coverage ≤ 10% Limited Process  Other Lines PA 90	F&U 30  Inland Marine, Ocean Marine, Fidelity, Surety, Boiler & Machinery, Special Risks NF 1	U&F 30  Inland Marine & Special Risks NF 1
New Mexico	PA 60	F&U	Farm, Ranch, Medical Professional Liab., Credit-related, Title PA 60  Other Lines F&U	Farm, Ranch, Medical Professional Liab., Title PA 60 D60 E 60  Other Lines F&U
New York	PA D 30 E 30	Auto PA D 30 E 30 + 15 Other Lines F&U  Other Lines F&U	PA D 30 E 30  Ocean Marine NF	Public Auto, Title, Credit Property, Gap PA D 30 E 30 + 15 Med. Mal. State Established  Ocean Marine NF  Other Lines (incl. Commercial Auto other than Public Auto) F&U

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
North Carolina	PA D 90	Auto PA 210 D 60	PA D 90	Employers' Liab. PA 210 D 50
		Homeowners, Dwelling Fire PA 210 D 50		Other Lines Modified F&U 60
North Dakota	PA D 60 E 15	Change <5% U&F 30	PA D 60 E 15	Farm, Crop Hail, Medical Malpractice PA D 60 E 15
		Change >5% PA	Aircraft, Crop, DIC, EQ, OM, Pet, Rain NF	Other Lines U&F 30
Ohio	Monoline Property PA D 30 E 15	Monoline Property PA D 30 E 15	Monoline Property PA D 30 E 15	Monoline Property PA D 30 E 15
	Other Lines F&U	Other Lines F&U	Aircraft NF 1  Other Lines FU&	Aircraft NF 1  Other Lines F&U
Oklahoma	PA D 60 E 30	U&F 30	PA D 60 E 30 Or Optional Process F&U 1 or 30  Title, Surety NF	Med. Mal. PA  Special Risks, Surety, Title NF  Other Lines U&F 30
Oregon	PA E 30	F&U	PA E 30	Title, Specified Liability Increase or Decrease > 15% PA D 30 E 30
				Specified Liability Incr. or Decr. ≤ 15% F&U  Aircraft NF  Other Lines F&U

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Pennsylvania	PA D 30 E 30	Auto Decrease > 10% or any Increase PA D 60 E 30 Decrease ≤ 10% F&U 30  Other Lines Decrease > 10% or any Increase PA D 30 E 30  Decrease ≤ 10% F&U 30	Large Com'l. Risks NF 1  Small Com'l. Risks F&U 45  Exempt Lines NF 1  Other Lines PA D 30 E 30	Auto Decrease > 10% or any Increase PA D 60 E 30 Decrease ≤ 10% F&U 30  Large Risks NF 1  Small Risks Increase or Decrease > 10% PA D 45  Small Risks Increase or Decrease ≤ 10% F&U 45
Rhode Island	PA	Rate Change ≤ 5% F&U  Rate Change > 5% Modified F&U 30	PA  Boiler & Machinery, Fidelity, Surety, Aviation, ECP NF 1	Medical Malpractice PA D 30 E 30  ECP NF 1  Other Lines Modified F&U 30 E 30
South Carolina	PA	Auto, HO Increase or Decrease ≤ 7% F&U 30  Auto, HO Increase or Decrease > 7% PA D 60 E 60  Coastal Property PA D 60 E 60  Other Lines PA D 60 E 60	U&F	Small Auto, Fire, Allied Lines Increase or Decrease ≤ 7% F&U 30  Small Auto, Fire, Allied Lines Increase or Decrease > 7% PA D 60 E 60  Medical Malpractice Credit PA D 60 E 60  ECP, Other Lines NF 1
South Dakota	PA D 30 E 30	F&U	F&U  ECP NF	F&U  ECP NF
Tennessee	PA D 30 E 30	PA D 30 E 30	Farm PA D 30 E 30  Other Lines U&F 15  Aircraft NF	Farm PA D 30 E 30  Other Lines U&F 15  Aircraft NF

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
<b>Texas</b>	Auto State Std. Forms OR PA D60 E10  Property PA D 60 E 10	F&U	Auto, Multi-Peril, Umbrella, Fidelity, Surety, Farmowners, Ranchowners, Boiler & Machinery, General Liab., Glass PA D 60 E 10  Some Prof. Liab., Some Ocean Marine, Aircraft, ECP NF 1  Mortgage Guaranty F&U 15	Mortgage Guaranty F&U 15  Aircraft, Ocean Marine, Non-filed Inland Marine NF  Other Lines F&U
<b>Utah</b>	F&U	U&F 30	F&U  Aviation NF	U&F 30  Aviation, Excess or Umbrella NF 1
<b>Vermont</b>	PA D 30 E 30	U&F 15	PA D 30 E 30	Claims-made PA D 30 E 30  Other Lines U&F 15
<b>Virginia</b>	Auto State Std. Forms  Other Lines PA D 30 E 30	F&U  Some Umbrella NF	PA D 30 E 30  Aircraft, Surety, Crop, Exempt Inland Marine, ECP NF 1	Aircraft, Crop, Exempt Inland Marine, ECP NF 1  Other Lines F&U
<b>Washington</b>	PA D 30 E 15	PA D 30 E 15	ECP, Foreign Trade, Ocean Marine, Surety, Surplus Lines NF 1  Other Lines U&F 30 D 30 E 15	Fidelity, Surety PA D 30 E 15  Large Accounts, Ocean Marine Aircraft, ECP NF 1  Other Lines U&F 30 E 15
<b>West Virginia</b>	PA D 60	PA D 60	Med. Mal. PA D 60  Other Lines F&U	Med. Mal. PA D 90  Aircraft NF  Other Lines F&U
<b>Wisconsin</b>	PA D 30 E 30	Inland Marine NF 1  Other Lines U&F 30	PA D 30 E 30	Inland Marine, Ocean Marine NF 1  Other Lines U&F 30

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Wyoming	PA D 45 E 45	NF	PA D 45 E 45  Exempt Lines NF 1	Title, Hospital Prof. Liab., Physicians and Surgeons Malpractice, Credit Property PA 30 E 30  Other Lines NF 1

**Key**

- Ax = Commissioner must approve within X days
- CP = Auto class plan
- Dx = Deemed approved after X days
- Ex = Commissioner may extend X days
- ECP = Exempt Commercial Policyholder
- F&Ux = File and use – must file X days before the effective date
- NF = No file (open rating)
- NF 1 = No file with exceptions (e.g., professional liability, claims-made) – see state pages
- Pax(w) = Prior Approval or Prior Approval and must file (W) working days before effective date
- U&Fx = Use and file – must file within X days after effective date

**Workers Compensation**

State	Form	Rate/Rule
<b>Alabama</b>	PA D 30	PA D 30
<b>Alaska</b>	PA 30 D 30 E 30	PA D 15 E 15
<b>Arizona</b>	F&U 30	F&U 30
<b>Arkansas</b>	PA 30 D 30 E 30	F&U 30
<b>California</b>	PA	F&U 30
<b>Colorado</b>	PA	F&U
<b>Connecticut</b>	PA D 30 E 30	PA D 30 E 30
<b>Delaware</b>	F&U	F&U
<b>District of Columbia</b>	PA	PA
<b>Florida</b>	PA D 30 E 15	PA
<b>Georgia</b>	PA D 90 E 90	Increase F&U 45  Decrease F&U 1
<b>Hawaii</b>	Std. Form F&U	PA D 90 E 15
<b>Idaho</b>	F&U 1	PA D 60 E
<b>Illinois</b>	F&U	U&F 30
<b>Indiana</b>	F&U	Modified F&U D 30
<b>Iowa</b>	PA D 30	PA D 30 E 15
<b>Kansas</b>	PA D 30	F&U
<b>Kentucky</b>	PA D 60 E 30	Increase or Decrease $\leq$ 15% within any territory within a 12-month period U&F 15  Increase or Decrease $>$ 15% within any territory within a 12-month period PA D 30 E 30
<b>Louisiana</b>	PA D 45 E 15	F&U 90
<b>Maine</b>	PA 30 D 30 E 30	PA 30 D 30 E 60
<b>Maryland</b>	Std. Form	F&U 1 Or PA 30 E 30
<b>Massachusetts</b>	PA	PA
<b>Michigan</b>	NF	F&U

**Workers Compensation**

State	Form	Rate/Rule
<b>Minnesota</b>	Std. Form	PA 60
	Non-standard form PA	
<b>Mississippi</b>	PA D 30 E 30	PA 30 D 30 E 30
<b>Missouri</b>	Std. Form	U&F 30
<b>Montana</b>	PA 60	PA 30
		Loss Cost Adoption F&U 1
<b>Nebraska</b>	PA D 30 E 30	F&U Excess WC NF
<b>Nevada</b>	Std. Form Or PA D 60	F&U 15
<b>New Hampshire</b>	PA D 30	PA
<b>New Jersey</b>	PA	Std. Rates PA
<b>New Mexico</b>	PA 90	PA 90
<b>New York</b>	PA	NY Compensation Insurance Rating Board
<b>North Carolina</b>	Std. Form PA	State Bureau Rates PA 210
<b>North Dakota</b>	Monopolistic State Fund	Monopolistic State Fund
<b>Ohio</b>	Monopolistic State Fund	Monopolistic State Fund
<b>Oklahoma</b>	PA D 60 E 30	U&F 30
<b>Oregon</b>	Std. Form Endorsement PA D 30 E 30	PA D 30 E 30
<b>Pennsylvania</b>	State Rating Bureau	State Bureau Rates/Rules Rate Deviation PA
<b>Rhode Island</b>	PA	PA Effective Date 60 days after approval
<b>South Carolina</b>	PA	PA
<b>South Dakota</b>	PA D 30	F&U
<b>Tennessee</b>	U&F 15	U&F 15
<b>Texas</b>	Std. Form Endorsement PA	F&U 30
<b>Utah</b>	F&U	F&U 30

**Workers Compensation**

State	Form	Rate/Rule
<b>Vermont</b>	PA	PA D 30 E 30  Sub-classes F&U 30 D 33
<b>Virginia</b>	PA	F&U 60 E 30
<b>Washington</b>	Monopolistic State Fund	Monopolistic State Fund
<b>West Virginia</b>	BrickStreet Insurance	BrickStreet Insurance
<b>Wisconsin</b>	State Bureau Forms	State Bureau Rates/Rules
<b>Wyoming</b>	Monopolistic State Fund	Monopolistic State Fund

**Key**

- Ax = Commissioner must approve within X days
- CP = Auto class plan
- Dx = Deemed approved after X days
- Ex = Commissioner may extend X days
- ECP = Exempt Commercial Policyholder
- F&Ux = File and use – must file X days before the effective date
- NF = No file (open rating)
- NF 1 = No file with exceptions (e.g., professional liability, claims-made) – see state pages
- PAX(w) = Prior Approval or Prior Approval and must file (W) working days before effective date
- U&Fx = Use and file – must file within X days after effective date



# KANSAS INSURANCE ASSOCIATIONS

DAVID A. HANSON, LEGISLATIVE COUNSEL  
800 S.W. JACKSON, SUITE 900  
TOPEKA, KS 66612-1259

TELEPHONE NO. (785) 232-0545  
FAX NO. (785) 232-0005

## Kansas Association of Property & Casualty Ins. Cos.

## House Insurance and Financial Institutions Committee Testimony on Senate Bill 560

Member Companies:

Armed Forces Insurance  
Exchange  
Ft. Leavenworth

March 11, 2008

Bremen Farmers Mutual  
Insurance Co.  
Bremen

Mr. Chairman and Members of the Committee:

Columbia Insurance Group  
Salina

Thank you for this opportunity to present information on behalf of the Kansas Association of Property and Casualty Insurance Companies, whose members are domestic property and casualty insurance companies in Kansas.

Farm Bureau Mutual  
Insurance Company  
Manhattan

Farmers Alliance Mutual  
Insurance Company  
McPherson

Farmers Mutual Insurance Co.  
Ellinwood

Federated Rural Electric  
Insurance Exchange  
Lenexa

Senate Bill 560 is from the NCOIL Model for modernizing rate regulation and we believe it is the most viable approach for implementation at this point. Our Association strongly supports state regulation of insurance and we are concerned with the growing advocacy of federal regulation, including pending proposals before Congress for optional federal charter. We believe the NCOIL Model is a reasonable step toward modernization and effective state regulation and we would urge your favorable consideration of the Bill. The Senate amended the original Bill to remove the 12% limitation on decreases and, although not causing a huge problem, the change does cause some concern, especially to our smaller companies, who fear the lack of a limit on decreases may lead to predatory pricing by some companies that may not be in the best interests of the insuring public in the long run. Rick Wilborn of Farmers Alliance, one of our member companies, is also providing testimony in support of the Bill and we would incorporate his testimony on behalf of our other members as well.

Kansas Mutual Insurance Co.  
Topeka

Marysville Mutual Insurance Co.  
Marysville

Mutual Aid Association of the  
Church of the Brethren  
Abilene

Mutual Aid eXchange  
Overland Park

Upland Mutual Insurance Co.  
Chapman

Thank you for your consideration.

Respectfully,



DAVID A. HANSON



FARMERS

11880 College Boulevard  
Suite 201 A  
Overland Park, Kansas 66210  
BUS 913-234-3902

March 11, 2008

To: Representative Clark Shultz, Chairman  
House Insurance and Financial Institutions Committee

From: Lee Wright, Governmental Affairs Representative

Re: Written Testimony on Rate Modernization: Senate Bill 560

Position: Support

Thank you for this opportunity to provide written testimony in support of SB 560 regarding Rate Modernization.

We believe insurance markets best accomplish their risk management function when they allow insurers to charge rates that reflect the actual risks their policyholders incur and, conversely, allow insurers to discount products for consumers who mitigate against risks. When government regulation cripples the price mechanism, it will necessarily either suppress rates overall (or more likely) redistribute the burden of paying for risk. This cannot help but result in wealth redistribution from people who behave safely to those who take greater risks.

We recognize that some insurance regulation, such as the enforcement of laws against force and fraud in the insurance business for example, clearly is necessary. Other types of regulation, such as providing assurances insurance companies can actually pay their claims, should involve a mix of private and state efforts. We believe some regulations, such as the price charged for insurance products, should remain very largely in the hands of market forces and voluntary arrangements.

Respectfully,

Lee Wright  
Governmental Affairs Representative  
Farmers Insurance

House Insurance  
Date: 3-11-08  
Attachment # 8

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

**BRAD SMOOT**  
ATTORNEY AT LAW

10200 STATE LINE ROAD  
SUITE 230  
LEAWOOD, KANSAS 66206

**Statement of Brad Smoot  
American Insurance Association  
House Insurance & Financial Institutions Committee  
Regarding Senate Bill 560  
Written Only**

**March 11, 2008**

Madam Chair and Members of the Committee,

The American Insurance Association (AIA) is a national trade association representing some 450 member companies writing all lines of property and casualty insurance in Kansas, across the United States, and around the world. Today, AIA encourages the Kansas legislature to seize this opportunity to modernize and streamline how insurers' rates are regulated in this state. SB 560 begins the process of achieving this objective.

To give a big picture context, the insurance industry is unique in its distinction as the only U.S. industry that is subjected to stringent government price controls. Such controls have virtually disappeared from the rest of our economy because history and experience have proven that market-based regulation leads to the widest array of products at the lowest prices. Government control over price and product can only lead to market dysfunction.

Rate regulation – which encompasses any regulatory ability to review and reject an insurance rate or price – interferes arbitrarily with natural economic forces of supply and demand that empower consumers, sends incorrect messages about mitigation and other loss control measures, and improperly places regulators in the position of exercising business judgment with respect to an insurer's customers. Indeed, a rigid regulatory review framework promotes product commoditization or standardization, leaving consumers with fewer choices and little incentive to understand and compare the various insurers that offer those products. This, in turn, denies consumers the ability to dictate the range of options that they enjoy for other products and services that are part of a more market-oriented regulatory structure.

The bill before you today provides a modest approach to regulatory modernization.

Typically, flex rating as contained in SB 560 blends two rate filing approaches. It allows periodic rate changes within applicable "flexibility bands" - specified as a maximum percentage increase or decrease - on a "file and use" basis. Rate changes that exceed these flexibility bands generally require the regulator's approval. This modest flexibility allows the market to operate more efficiently and to respond more appropriately to customers' needs. This system has been implemented most recently in South Carolina's private passenger auto market and was implemented in Louisiana in 2004.

AIA actually prefers a file and use system as outlined in SB 274, introduced last session, which requires that an insurer submit a filing to the regulator in advance of its implementation. The value and efficiency of this system, and any other, varies with the duration of the delay as well as with the manner in which it is administered by the regulator. In principle, it is generally regarded

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as more competitive than a flex system, since it does not include a prior approval component. This system has been successfully enacted in a number of states including Texas, Oklahoma, New Mexico and Colorado. Most recently, Louisiana replaced the flex band system with file and use following Hurricanes Katrina and Rita as a means to attract more insurers to the state and provide greater rate competition.

It should also be noted that commercial lines rates in Kansas have been successfully regulated under a file and use rating system for almost 10 years.

By shifting to a more competitive market-based system of rate regulation, property-casualty insurance will not be “deregulated.” Instead, resources will be redirected to those regulatory functions such as market conduct and financial solvency oversight that protect insurance consumers. Insurers have a direct stake in wanting other insurers to be financially sound, because it is the healthy insurance companies (and, by extension, their policyholders) that pay when an insurer becomes insolvent, and it is insurance companies that suffer the harm of tarnished reputations when bad actors are not swiftly punished.

The public benefits from a system that allows less restrictive, or more market-oriented, rating laws rely on competitive forces to ensure that insurance rates are consistent with underlying costs. Insurers can react quickly to changing loss trends and implement rate increases or decreases in a timely fashion, hence keeping the market stable and strong.

Indeed, the nation’s insurance regulatory trend is toward greater rate modernization and away from prior approval. Benefits resulting from some states’ move to greater rate competition may include: (1) an increased number of insurers, offering consumers more choice; and (2) the ability for insurers to better price their products, creating cost savings in the form of lower rate increases or even rate decreases. Less stringent rating laws by no means imply that regulators have given up oversight of insurance companies. There are other ways, such as licensing requirements, solvency regulation, market conduct surveillance and monitoring consumer complaints by which state insurance departments.

Positive changes for consumers have been observed in some states that have amended their rating laws. It is sometimes presumed that companies will quickly implement large rate increases under a system with greater price freedom, knowing that these rates will not need regulatory approval. Contrast this presumption with the following:

- Six leading auto insurance companies implemented rate reductions (one as large as 10 percent) or no rate change at all following South Carolina’s regulatory modernization. In a March 2004 letter, Dean Kruger, the former chief actuary at the insurance department, wrote, “the assumption used under the prior approval law was that requiring insurers to lower requested rate increases saves money for consumers. If such an assumption were accurate, then premiums should have increased during the implementation. In fact, they dropped and this indicates that the competitive marketplace is the more effective in controlling rate levels.”
- These sentiments were echoed by the former Louisiana insurance commissioner who claimed that policyholders benefited when his state converted to greater rate competition: “Insurers aren’t as reluctant to reduce rates when business is good because they know they can also raise rates without incurring a political battle.” After the change, State Farm Mutual Auto

Ins. Co. policyholders received an average \$20 rate reduction, or an overall cost savings of \$19.3 million.

- Even Massachusetts, arguably the most heavily regulated state in the country, has eased its regulation imposed on auto insurers beginning April 1, 2008. In anticipation of this date, companies have filed rate reductions for their policyholders, some up to 25 percent. Innovative product features in the form of additional discounts and new endorsements (e.g., accident forgiveness and sliding-scale deductibles) will also be implemented.

The opportunity for Kansas consumers to benefit from the current reapportionment of insurer capital, particularly in the property market, can not be overstated. Insurers are looking inland to manage their risks more effectively by reducing their coastal exposure. It is likely these business decisions will be based in part on the regulatory schemes in place from state to state. In order for Kansas to take advantage of this opportunity, it should carefully consider the impact of not keeping pace with those states that have recently implemented the more competitive file and use system similar to SB 274. The flexibility of this approach allows the market to operate more efficiently and to respond more appropriately to customers' needs.

Finally, even with flex rating, insurance pricing is far more regulated than pricing in any other sector. AIA views SB 560 as just one in a series of steps toward regulatory modernization. Flex rating can be an excellent transition step for states that may want to consider ultimately moving to a fully competitive market. If the Kansas legislature opts to support a flex rating approach as outlined in SB 560, AIA urges the committee consider amending the bill to create a procedure for moving Kansas to a full "file and use" system in the very near future.



# Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

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## TESTIMONY ON SCR 1616

HOUSE INSURANCE AND FINANCIAL INSTITUTIONS  
March 11, 2008

Mr. Chairman and Members of the Committee:

Two years ago SCR 1616<sup>16-08</sup> authorized the creation of an Auto Insurance Verification Task Force which was charged with finding a solution to the problem of uninsured motorists in Kansas. This year the Kansas Insurance Department is proposing the Auto Insurance Verification Task Force (SCR 1616) be reauthorized to continue its job.

Experts from around the country were able to weigh in on the types of things that an electronic verification system should possess in order to be effective across state lines, and the types of things that would make it most effective for Kansas.

The fact remains that cost is still the prohibiting factor in the implementation of a workable system. Thus, it is prudent for the task force to complete a cost/benefit analysis based on information from other states when designing an insurance verification system. Due to the relative infancy of experimental programs across the nation we feel it is necessary to continue watching these programs and gauge their success rates to avoid hastily implementing a system of our own.

Task Force members have agreed to urge the Kansas Legislature for a reauthorization of the Task Force in hopes that further research and discussion will manifest a workable, cost-effective solution to the uninsured motorist problem.

John Meetz  
Government Affairs Liaison

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