

Approved: February 25, 2010

Date

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:35 p.m. on February 16, 2010, in Room 152-S of the Capitol.

All members were present.

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Sue Fowler, Committee Assistant

Conferees appearing before the Committee:

Representative Nile Dillmore, District 92
William W. Sneed, The State Farm Insurance Companies
Kerri Spielman, Kansas Association of Insurance Agents
Corrie Edwards, The Kansas Health Consumer Coalition
John H. Meetz, Kansas Insurance Department

Others attending:

See attached list.

Hearing on:

HB 2563 **Allowing an insurance consumer to request that an insurance company grant an exception from negative credit scoring because of extraordinary life circumstances.**

Melissa Calderwood, Kansas Legislative Research Department, gave an overview of **HB 2563**.

Proponents:

Representative Nile Dillmore, District 92, (Attachment 1), gave testimony before the committee in support of **HB 2563**.

William W. Sneed, The State Farm Insurance Companies, (Attachment 2), appeared before the committee in support of **HB 2563**.

Kerri Spielman, Kansas Association of Insurance Agents, (Attachment 3), appeared before the committee in support of **HB 2563**.

Corrie Edwards, The Kansas Health Consumer Coalition, (Attachment 4), presented testimony before the committee in support of **HB 2563**.

Rick Wilburn, Farmers Alliance Mutual Insurance Company, (Attachment 5), presented written testimony in support of **HB 2563**.

Dave Monaghan, American Family Insurance, (Attachment 6), presented written testimony in support of **HB 2563**.

Dave Hanson, Kansas Association of Property & Casualty Insurance Companies, (Attachment 7), presented written testimony in support of **HB 2563**.

Brad Smoot, American Insurance Association, (Attachment 8), presented written testimony in support of **HB 2563**.

Neutral:

John H. Meetz, Kansas Insurance Department, (Attachment 9), presented neutral testimony on **HB 2563**.

Hearing closed on **HB 2563**.

Representative Grant moved without objection to pass the February 11, 2010 committee minutes as written.

The next meeting is scheduled for Thursday, February 25, 2010.

The meeting was adjourned at 4:25 p.m.

House Insurance Committee
Guest Sign In Sheet
Tuesday, February 16, 2010

Name	Representing
Bill Sneed	State Farm
Alex Kotovantz	P. I. A.
Sand Jones	United Health Group
Lee Wright	Farmers Ins.
John Meetz	KIO
David Monaghan	American Family
Michelle Bellis	Capital Strategies
Chad Arstin	KHA
Sarah Gullod	DPKM
Harry Spireman	KATA
Rick Miller	Farmers Alliance
Lori Church	KAPCIC
David Hanson	KAPCIC
Whitney Jamm	ES Psychological Assn
Tom Cochran	CDIA

Testimony to the House Insurance Committee

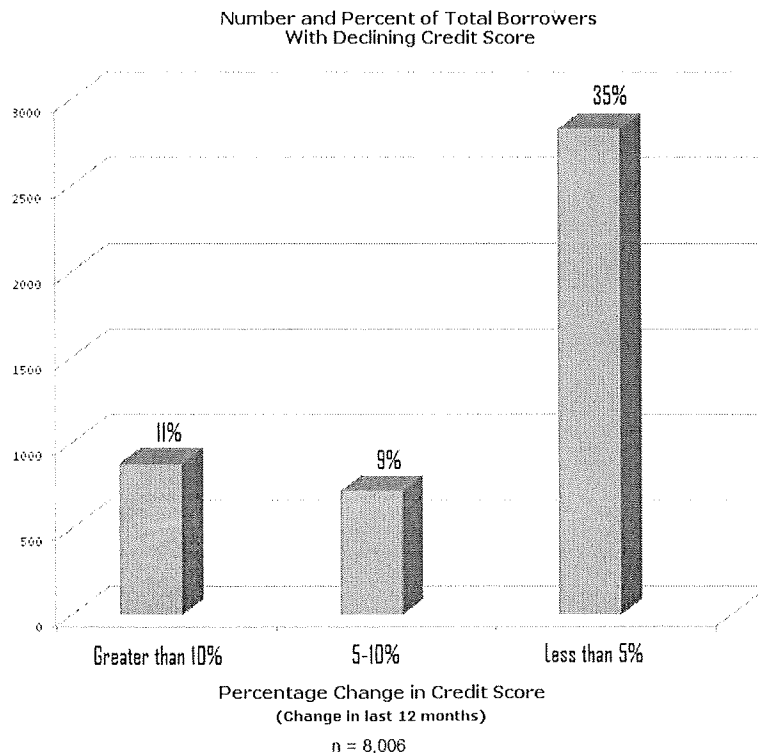
February 16, 2010

Submitted by Rep. Nile Dillmore

It will come as no surprise to the thousands of laid off Kansans that it is very hard to make ends meet and that sometimes bills are not paid as promptly as they used to be. It is also not surprising for their credit to suffer during this difficult time. What will surprise those Kansans is to learn that the premium for their car or house insurance may go up because of that lower credit rating.

Property and casualty insurers base their premiums on a multitude of factors. Past claims, age, driving record, and many other aspects all play a part in setting the rate. One of the factors considered is the applicant's credit score. The algorithms used to determine a given applicants risk is proprietary information that is not available to you or I to examine. Therefore, it is uncertain just how heavily those credit scores influence the premium. What is certain is that the extent of the layoffs has been injurious to consumers and their credit score. Through no fault of their own, they may experience a considerable increase in their insurance premium as they purchase or renew a policy.

Last December it became very apparent to me that consumers are seeing a significant reduction in their credit scores. It was then that the financial institution that I work for updated the credit scores of their borrowers. The following graph shows the result of that update:



I should like to note that extraordinary life circumstances as defined in the bill, do not account for all declines in scores. However, this shift of the last 12 months is dramatic and unprecedented in my experience. I believe that the economy and subsequent layoffs caused a significant number.

How much impact does this shift have in premiums? As you know credit scores generally range between 350 and 850. If your credit score was 750 and declined by 10%, your score would be 675. That shift is enough to make a big difference in the rate you pay for a car loan or a home loan. I have to believe it will make a difference in your insurance score.

I think we all agree that HB 2563 represents an improvement to our current statutes. It allows consumers some control of their credit/insurance score during extraordinarily difficult times, it allows the insurance company to modify a confusing and misleading notice requirement, and it eliminates the mandated update of these scores every three years.

I would caution you not to let the perfect get in the way of the good. Some feel that the use of insurance scoring should be repealed altogether. Should you feel the temptation to use this bill as means to that end, you will be doing your constituents and consumers in Kansas a disservice. **A ban on insurance scoring will not become law!**

HB 2563 can become law and will serve Kansans. I urge your support for this bill.

TO: The Honorable Clark Shultz, Chairman
House Insurance Committee

FROM: William W. Sneed, Legislative Counsel
The State Farm Insurance Companies

SUBJECT: Insurance Scoring

DATE: February 16, 2010

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. Please accept this memorandum as our testimony in support of H.B. 2563.

Please allow me the opportunity for a quick review of the Kansas law and the events that occurred after the 2009 session.

During 2001 and 2002, there were a multitude of credit scoring bills introduced in the Kansas Legislature (along with other states throughout the country). Although not directly related to the insurance industry, this action commenced a conversation about the use of credit scores in insurance products. Based upon those discussions, the 2002 Kansas Legislature passed S.C.R. 1623. This resolution requested the Kansas Commissioner of Insurance to study the use of insurance scoring reports within the insurance industry. The multi-person task force established under S.C.R. 1623 met four times during the fall of 2002, the results of which were encompassed in a report submitted to the 2003 Kansas Legislature. During that same time frame, the National Conference of Insurance Legislators ("NCOIL") created a model act regarding the use of credit information in personal insurance. Finally, at the beginning of the 2003 session, the Kansas Association of Insurance Agents ("KAIA") also proposed a model bill to cover this subject. During the 2003 session, the Kansas Legislature had S.B. 144, which was the KAIA proposal, and S.B. 177, which was the NCOIL version. The chairs of both the House and Senate FI&I committees requested that the parties continue to meet with the newly-elected insurance commissioner in an attempt to procure a model bill that could be supported by all parties. After numerous meetings with the Kansas Insurance Department, a compromise bill was formulated, and ultimately it was included in H.B. 2071, which was passed by the Kansas Legislature.

The outcome is the creation of the Kansas Insurance Score Act (K.S.A. 40-5101, *et seq.*). The Act provides the standard applicability and definition sections and outlines several broad areas affecting the use of insurance scores in rate making.

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The Honorable Clark Shultz, Chairman
House Insurance Committee
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During last year's session, four bills (S.B. 24, S.B. 172, S.B. 206 and H.B. 2053) were introduced to eliminate or curtail the use of insurance scoring. Those bills were not acted upon, and at the request of both chairs, industry was directed to meet with the authors of the bills to determine what, if any, additional action needed to be taken in this area.

On December 1, 2009, various representatives of the insurance industry met with several legislators to discuss the current state of the law in Kansas and what other additional activities have occurred throughout the country. That meeting resulted in several items that the group believed warranted further exploration and may lead to avoidance of some unintended consequences of the insurance credit score law. Those items are:

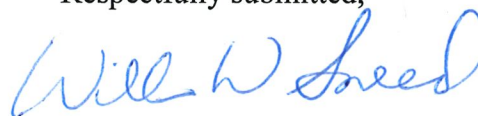
1. consider adding the new extraordinary life circumstances NCOIL amendment to the Kansas law;
2. eliminate or amend the mandatory three-year look-back statute (K.S.A. 40-5104(g)(3)(C)); and
3. amend or eliminate the mandatory adverse action notice regarding best possible rates (K.S.A. 40-5103(a)(2)).

After the Joint Committee meeting of January 21, 2010, these three items were present in H.B. 2563. We believe that the new NCOIL language will provide additional safeguards for the consumer. Also, the changes on "look back" and "best possible rate" will eliminate some of the confusion that surrounds insurance scoring.

Thus, we respectfully request that the Committee act favorably on H.B. 2563.

It is my hope that this information has been helpful to the Committee, and I would be happy to discuss questions at the appropriate time.

Respectfully submitted,



William W. Sneed

WWS:kjb
cc:
/



Testimony on House Bill 2563
Before the House Insurance Committee
By Kerri Spielman
February 16, 2010

Thank you, Mister Chairman and members of the Committee, for the opportunity to offer testimony on House Bill 2563. My name is Kerri Spielman and I'm representing the Kansas Association of Insurance Agents. We have approximately 435 member agencies across the state and another 110 branch offices that employ more than 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.

Extraordinary Times, Extraordinary Considerations

We support the concept behind the provision that would allow consumers to request consideration for an extraordinary life circumstance. There are certainly times when life events demand extra consideration. Our members frequently work with insurance companies on their clients' behalf when they may be struggling with financial difficulties for some unusual reason.

Elimination of the Every 3-Year Credit Run Requirement

We support eliminating the requirement that insurance companies run policy holders' credit every three years. Today, consumers are very "credit score aware". At any time, they can request insurance companies check their credit scores in an attempt to improve their insurance score which may result in lower premiums. During difficult economic times, it works to the consumers' benefit to not have an insurance company running their credit score simply because they are required to by state statute. Though companies cannot increase premiums solely on the basis of a change in credit score, it's likely there would be other factors that would work against the consumer as well.

Transparency in Insurance Scores

We would like to ask that the committee consider one additional amendment to the Kansas Insurance Score Act. We support a provision that would require insurance companies to file with the Kansas Insurance Department, in descending order of importance, a list of all the factors they consider when calculating insurance scores. Insurance companies will be the first to tell you that a consumer's premium cannot be increased solely based on a change in their credit score. The credit score is just one factor in their insurance score which is what companies use to calculate premiums. Insurance companies will be the first to tell you that their insurance scoring formulas are proprietary. We agree with their position and we are not asking for the formulas – just a list of those factors that are included. Not allowing consumers to know what factors are included in a formula that may affect their premium is the equivalent of assigning grades to students without them knowing what the grade is based on so that they may correct the issue. We believe transparency in Insurance Scores would result in better, smarter consumers.

Thank you for the opportunity to offer testimony on HB 2563.



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Testimony in Support of HB 2563

Corrie Edwards, Executive Director, Kansas Health Consumer Coalition

February 16, 2010

Mr. Chair and Members of the Committee:

Thank you for the opportunity to speak before you in support of HB 2563. I am the Executive Director of the Kansas Health Consumer Coalition (KHCC), an organization advocating affordable, accessible, and quality health care for all Kansans.

Our top priority for the 2010 legislative session is to alleviate the burden of medical debt for those who are least able to pay that debt. Medical debt harms the financial and physical well being of a patient as consumers forego care to avoid additional bills. According to a Harvard study, more than half of all bankruptcies have as a main or contributing factor medical debtⁱ.

Why the increase in medical debt? There are two major factors contributing to medical debt, the increase in health care costs and insurance coverage that fails to provide sufficient benefits. Between 2000 and 2008, the cumulative growth in insurance premiums grew three times as fast as wage increases.ⁱⁱ During this same time period, the availability of employer-sponsored coverage fell from 69% of firms providing this benefit to 63%.ⁱⁱⁱ For those securing coverage in the individual market, 53% of those surveyed face high out-of-pocket health care costs, as defined as 10 percent of annual income. This is a rate that is three times higher than everyone else.^{iv}

A study of credit card debt in 2005 showed 29% of low and middle income households with credit card debt spanning at least three months reported having a major medical expense in the past three years that contributed to credit card debt.^v

Why should medical debt be treated differently than other debt, as proposed by HB 2563? The answer is it is not discretionary debt. This is not someone buying a television that they couldn't afford. It may be an unexpected health occurrence that leads to medical debt or it may be the consequence of a chronic illness for which insurance coverage is insufficient or unavailable. Providing this small exemption recognizes the involuntary nature of this debt and the importance of not placing people in more costly circumstances as credit scores impact rates for other necessary insurance policies.

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ⁱ [www.demos-usa.org/pubs/harvard MedDebtFeb05.pdf](http://www.demos-usa.org/pubs/harvard%20MedDebtFeb05.pdf) *Illness and Injury as Contributors to Bankruptcy*

ⁱⁱ Kaiser Family Foundation, *Focus on Health Reform, "Health Care and the Middle Class: More Costs and Less Coverage*; Diane Rowland, Catherine Hoffman, Molly McGinn-Shapiro; July 2009

ⁱⁱⁱ Kaiser Family Foundation, *Focus on Health Reform, "Health Care and the Middle Class: More Costs and Less Coverage*; Diane Rowland, Catherine Hoffman, Molly McGinn-Shapiro; July 2009

^{iv} Kaiser Family Foundation, *Focus on Health Reform, "Health Care and the Middle Class: More Costs and Less Coverage*; Diane Rowland, Catherine Hoffman, Molly McGinn-Shapiro; July 2009

^v Kaiser Family Foundation, *Focus on Health Reform, "Health Care and the Middle Class: More Costs and Less Coverage*; Diane Rowland, Catherine Hoffman, Molly McGinn-Shapiro; July 2009

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farmersAlliance

Insuring Rural America Since 1888

To: House Insurance Committee

From: Richard E. Wilborn

Re: House Bill No. 2563

Date: February 16, 2010

Mr. Chairman and Members of the Committee, I appreciate this opportunity to share our views relating to the use of credit/insurance information.

My name is Rick Wilborn. I represent 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 states.

House Bill 2563 amends K.S.A. 2009 Supp. 40-5103 and 40-5104 and repealing existing sections. The three areas of change are 1) a new section that applies to "extraordinary life circumstances"; 2) deleting the requirement of sending an adverse notice to an insured who receives a rate other than the best possible rate; and 3) removing the requirement of mandating an insurer to recalculate the score at least every 36 months.

In these economic times one would think that the proposed new section containing the "extraordinary life circumstances" provision would be a perfect solution. However, by adopting this language, judgment and underwriting becomes subjective and not objective. If indeed an insured with a less desirable insurance score is grouped in a higher insurance score class than the loss cost integrity is compromised and the insured is cross subsidized by the better score grouping. The adoption of the rules and regulations will become the guiding principle as it relates to the manual handling of these exceptions. We are reluctant in our support of this provision, and defer to your judgment.

By deleting the requirement of sending adverse notices to insureds that receive a rate other than the best possible rate, is best for the consumer, the insurer and the regulator. At the present the requirement only causes confusion and does not solve any problems. We support this change whole heartily.

The requirement that mandates an insurer to recalculate the insurance score, again, causes confusion and serves very little use. If an insured requests a new recalculation than they can do so. We support the deletion of this requirement.

In closing, the responsible use of insurance scoring has benefited a high percentage of the insureds in Kansas. We recommend very thoughtful consideration of any changes you make, as it affects the overall rate structure that many consumers have come to enjoy.

Respectfully,



Richard E. Wilborn, CPCU

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Farmers Alliance Mutual Insurance Company
Alliance Indemnity Company • Alliance Insurance Company, Inc.

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American Family Insurance Group
P.O. Box 1786
Jefferson City, Missouri 65102
Phone (573) 893-5600

Building Location:
3600 Amazonas Drive
Jefferson City, Missouri 65109



David Monaghan
Government Affairs

February 16, 2010

Representative Clark Shultz
Kansas State Capitol
Room 115-S
300 SW 10th Street
Topeka, KS 66612

Re: American Family Insurance's support for House Bill 2563

Chairman Shultz and Members of the House Insurance Committee:

American Family Insurance insures approximately sixteen percent of the automobiles and homes in the state. We offer insurance products through some 250 agents who reside throughout the state.

This letter serves to express American Family's support for House Bill 2563. Credit-based insurance scoring is an objective tool that benefits most policyholders. We recognize, however, that many events which may damage an individual's credit history are beyond the control of the individual. House Bill 2563 requires insurers to provide exceptions to their rating plans to assist individuals whose credit information has been impacted by an extraordinary life circumstance. Under the legislation, extraordinary life circumstances include job loss, divorce, death of a family member, and catastrophic events.

When any insurance company charges a customer a higher premium due to credit-based insurance scoring, they are required by federal law to send the customer a letter known as an "adverse action notice." Under Kansas law, insurers are also required to send an "adverse action notice" to any customer who does not receive the "best possible rate." So, in Kansas, many customers who enjoy lower premiums because of credit-based insurance scoring still receive "adverse action notices." This practice is often misleading and confusing to customers. House Bill 2563 modifies the state law so insurers will only send "adverse action notices" to customers who pay higher premiums due to credit-based insurance scoring.

House Bill 2563 provides important consumer protections and we urge you to support it.

Sincerely,

A handwritten signature in black ink that reads "David A. Monaghan".

David Monaghan

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KANSAS ASSOCIATION OF P&C INSURANCE CO.

DAVID A. HANSON, LEGISLATIVE COUNSEL
800 S.W. JACKSON, SUITE 900
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Kansas Association of
Property & Casualty Ins. Cos.

**House Insurance Committee
Testimony on House Bill 2563**

Member Companies:

Armed Forces Insurance
Exchange
Ft. Leavenworth

Bremen Farmers Mutual
Insurance Co.
Bremen

Columbia Insurance Group
Salina

Farm Bureau Mutual
Insurance Company
Manhattan

Farmers Alliance Mutual
Insurance Company
McPherson

Farmers Mutual Insurance Co.
Ellinwood

Federated Rural Electric
Insurance Exchange
Lenexa

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

February 16, 2010

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to present information on behalf of the Kansas Association of Property and Casualty Insurance Companies, our state trade association for domestic property and casualty insurance companies in Kansas.

We are offering this testimony in support of HB 2563, which would amend K.S.A. 2009 Supp. 40-5104, as well as remove existing sections of that statute. HB 2563 proposes to add a new "extraordinary life circumstances" section to the statute, to remove the requirement that insurers send an adverse notice to an insured who receives any rate other than the best possible rate and to delete the section requiring an insurer to recalculate an insured's insurance score at least every 36 months.

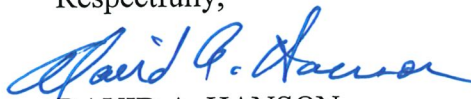
In regards to the "extraordinary life circumstances" provision, some of our member companies have concerns regarding the subjectiveness of such a test and how that will effect the accuracy of underwriting. There are concerns about the broad terminology that needs clarification and we would be glad to work with interested groups in trying to agree to some clarifications.

While our companies have some concerns regarding the "extraordinary life circumstances" provision, they are wholly in favor of deleting the requirement of sending adverse notices to insureds that receive any rate other than the best possible rate. Such notices have caused a lot of confusion among consumers, especially since a very select few of insureds would ever qualify for the very best possible rate offered. It should be noted that even with this change, insurers will still be required to provide adverse notices to those consumers whose rates are negatively impacted by insurance scoring.

Our member companies support the removal of the requirement that insurers recalculate the insurance score at least every 36 months. If this provision was removed, insureds could still request a new recalculation at least once a year, if they so desired, which would allow them to recalculate their rates if they believe their insurance score has improved.

We certainly appreciate your consideration of this bill. Thank you again.

Respectfully,


DAVID A. HANSON

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BRAD SMOOT
ATTORNEY AT LAW

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STATEMENT OF BRAD SMOOT
AMERICAN INSURANCE ASSOCIATION
HOUSE INSURANCE COMMITTEE
HOUSE BILL 2563
FEBRUARY 16, 2010

Mr. Chairman and members:

I am writing on behalf of the American Insurance Association (AIA), a trade association comprised of over 350 member companies which write all lines of property and casualty insurance in all 50 states.

The members of the American Insurance Association support the use of credit-based insurance scoring in the development of insurance rates for auto and homeowners insurance. Credit information is a valuable predictive tool in estimating risk and in setting appropriate rates for consumers. There is a general recognition among consumers, regulators and lawmakers that use of this tool is both fair and reliable when properly regulated.

Kansas, as one of the early states to adopt the basic NCOIL model for regulation of insurance scoring, now has considerable experience with the process and the public concerns. Most of our fellow Kansans are beneficiaries of the insurance scoring process and accept it as an ordinary part of insurance pricing. In fact, as Assistant Insurance Commissioner Bob Tomlinson pointed out to the joint meeting on this topic early this year, the abolition of such scoring would have a negative impact on the rates of most insureds. He noted further that if lawmakers are hearing some complaints now about the use of insurance scoring, you will hear lots more if the practice were suddenly halted. Although scoring is useful and generally accepted, some feel our regulation of it can be improved. Hence, HB 2563.

The "extraordinary life circumstances" exception, contained in Section 1 of the bill, was adopted by NCOIL to address those cases where changes in a person's life may be so unusual and difficult that the use of an insurance score should be reconsidered. This new section may be important today as we deal with the dislocations of our military families due to foreign conflict and with the hardships brought on by the current recession.

Section 2 of the bill deletes language from existing law which varied from the original language of the NCOIL model and which is contrary to the requirements in an overwhelming majority of states. Requiring notice to a consumer when he or she is being quoted a rate which is "less than the best possible rate" creates a great deal of confusion, misunderstanding, unnecessary worry and considerable work for the Kansas Insurance

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Department, insurance agents and lawmakers who must field the many questions that often follow such notifications. A person may be offered a better rate than they had before or one that is better because of their good credit rating but upon receiving the required notice, they will be left with the impression that they are somehow being cheated because they didn't get the "best possible" rate available. Such factors as claim history or driving record may be the biggest contributing factor but the adverse notice must still go out. The U.S. Supreme Court referred to this type of notice as "hypernotification." In our view, it causes more harm than good. Kansas should return to the original NCOIL notice requirements and join the majority of other states.

Section 3 of HB 2563 strikes another provision which differs from the original NCOIL model. While giving insureds the option of requesting that their insurance score be reviewed is a good and workable provision of current law, requiring insurance companies to rescore their entire list of insureds every three years creates confusion for consumers. While some companies may want to review their ratings every three years, others do not. They are familiar with their customers' risks and shaking up the mix of consumers may only drive some good customers away. This is especially true when the "best possible rate" notice of current law is required following one of these mandated three year reviews.

AIA believes that the changes proposed in HB 2563 improve an otherwise sound regulatory scheme. So while we can live with the current system, we think consumers, insurers, regulators and lawmakers will have less trouble, confusion and difficulty understanding the use of credit information in insurance pricing with the passage of HB 2563. Thank you for consideration of our views.



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON HB 2563

HOUSE INSURANCE COMMITTEE February 23, 2010

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear today in conditional support of House Bill 2563. The national economy has put Kansans in a financial situation that could not have been anticipated and is not necessarily a reflection of how Kansans handle their finances under normal circumstances. The provisions in New Section 1 of House Bill 2563 will provide a safety net for Kansans who have encountered extraordinary life circumstances that are beyond their control. We applaud Representative Dillmore for bringing this forward and are supportive of the measure.

The primary reason I appear before you today is to address some details regarding the adverse action notification and its uses going forward. It is our understanding that the change in section 2 of House Bill 2563 is intended to eliminate notices to consumers currently being sent at each renewal if the consumer's rate or coverage is adversely affected by the credit score, even if there has been no actual change in the rate or coverage based upon the credit score.

Insurance companies will still be required to notify the consumer of an adverse action to their rate or coverage if the adverse action is due to a credit based insurance score at the initial application. Companies will also be required to notify consumers in the event that their rate or coverage changes as a result of their credit score. However, under House Bill 2563 companies will no longer be required to continually send adverse action notices at renewal time in the event that no change was made at all.

The Insurance Department supports House Bill 2563 and understands that the insurance industry is in agreement with our interpretation of the bill.

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

John Meetz
Government Affairs Liaison

House Insurance
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