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Memorandum

TO: THE HONORABLE CLARK SHULTZ, CHAIR
HOUSE INSURANCE COMMITTEE

FROM: WILLIAM W. SNEED, LEGISLATIVE COUNSEL
MORTGAGE INSURANCE COMPANIES OF AMERICA

RE: H.B.2507

DATE: JANUARY 30, 2012

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I appear today on behalf of the Mortgage Insurance companies of America. The Mortgage Insurance Companies of America represents the private mortgage insurance industry. MICA provides information on related legislative and regulatory issues, and strives to enhance understanding of the vital role private mortgage insurance plays in housing Americans. I am pleased to appear before the Committee and offer our testimony in favor of H.B. 2507, which was introduced at our request.

The members of the Mortgage Insurance Companies of America (MICA) are seeking amendments or revisions to laws and regulations in nine states where certain restrictions on retained risk and reinsurance requirements are proving unnecessary and burdensome. Kansas is among those states.

K.S.A. 40-3508, *Limiting coverage net of reinsurance or payment of indebtedness to insured and acquisition of title to security; election*, reads as follows:

> A mortgage guaranty insurance company shall limit its coverage net of reinsurance ceded to a maximum of twenty-five percent (25%) of the entire indebtedness to the insured or in lieu thereof, a mortgage guaranty insurance company may elect to pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

In current practice, this reinsurance requirement is usually satisfied by a mortgage insurance ("MI") company ceding risk on coverage in excess of 25% to an affiliated reinsurer because non-affiliated insurers typically are unwilling to meet the segregated capital requirements applicable to mortgage insurers and reinsurers. As a result, the reinsurance requirement serves no discernable purpose, adds complexity and cost, and creates inefficiency and other issues for the MI industry. For these reasons, MICA proposes that the reinsurance requirement be eliminated.

Issues of concern include the following:

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Preference for Certain Policyholders: If coverage in excess of 25% is issued and reinsurance is relied on by the issuing MI company, the capital of the affiliate is isolated for the benefit of coverage in excess of 25%, effectively creating a preference for those policyholders with higher coverage should the writing MI company be unable to pay its claims. This seems unfair for other policyholders—those with coverage below 25%. The source of capital for the reinsurer is most likely the writing MI company itself and the premiums ceded by the MI company to the reinsurer. Therefore, in net effect there is no additional capital brought to the over 25% risk, but just isolation of a portion of the risk and capital of the MI company in a reinsurance affiliate.

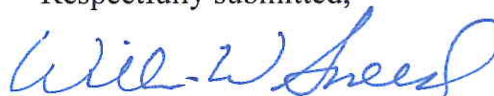
Administrative Burden; No Reinsurance Benefit: The required reinsurance imposes significant administrative costs on the writing MI company to set up and maintain a separate entity, which includes compliance recordkeeping, reporting and examination. In addition, if the excess coverage produces losses greater than anticipated, the writing MI company will need to provide capital to the reinsurer to maintain the reinsurer's compliance with minimum regulatory capital requirements. This circumstance then requires the regulator of the writing MI company to determine how much capital can be transferred from the writing MI company to the reinsurer through a dividend or capital contribution. Given that the reinsurer is formed for the benefit of, and capitalized by, the writing MI company anyway, a movement of capital from the writing MI company to the reinsurer requires the regulator to make projections and decisions without any real net benefit to the consolidated entity.

The 25% limit on coverage has been in effect for many years and is out of date. When the law was adopted, coverage above 25% was rare. The government sponsored enterprises Fannie Mae and Freddie Mac ("GSEs") and other mortgage investors and lenders now prefer somewhat higher coverage, with coverage of 30% or 35% standard for GSEs' purchase of certain loans. Thus the reinsurance requirement has become more often applicable in recent years, but without any real reinsurance benefit in the form of shifting risk to a third party with additional capital. Eliminating this outdated requirement would remove an unfair and burdensome requirement and would alleviate significant additional expenses associated with maintaining separate insurance entities.

MICA proposes that the Kansas Statute be revised to eliminate the per-loan risk retained limitation. Elimination of the restrictions on retained risk and resulting reinsurance requirements are supported by the Office of the Commissioner of Insurance for the State of Wisconsin ("OCI"), the Arizona Department of Insurance ("ADI") and the North Carolina Department of Insurance, the primary regulatory authorities for five of the seven active mortgage insurance companies. Finally, The Kansas Insurance Department has no objection to the elimination of this statute

Thus, based on the forgoing, we respectfully request that the Committee act favorably on H.B. 2507 and refer this bill out of Committee. I am available for questions at the Committee's convenience.

Respectfully submitted,



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