

Kansas Association of Property and Casualty Insurance Companies

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Senate Judiciary Committee Testimony on Senate Bill 396

February 16, 2012

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.

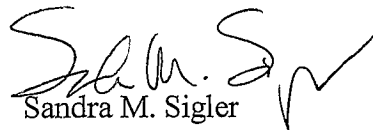
As to a disturbance of lateral support SB 396 creates a standard of conduct which could be described as negligence per se. Negligence per se is a tort concept whereby a legislatively imposed standard of conduct is adopted by the civil courts as defining the conduct of a reasonably prudent person. When the legislature fixes a standard of reasonable care through the enactment of a statute, the trier of fact must determine only if the tortfeasor committed the act prescribed by the statute and if the act was the proximately caused the damage or injury.

Creating a higher standard for this tort is unnecessary and does not benefit the consumer. The higher standard is likely to increase the cost of litigating these cases. Ultimately that cost will be passed on to the consumer through higher premiums. The current standard of care provides accurate protection for interested parties.

Therefore, Kansas Association of Property and Casualty Insurance Companies opposes SB 396.

We thank you for your time and consideration.

Respectfully,


Sandra M. Sigler