American Family Insurance
P.O. Box 1925
Jefferson City, Missouri 65102
Phone (573) 230-4596
Email: dmonagha@amfam.com

David Monaghan, CPCU
Government Affairs Counsel

January 21, 2015

WRITTEN ONLY

Senator Jeff King
Chairman, Senate Judiciary Committee
State Capital Building
300 SW 10th Ave. Room: 341-E
Topeka, KS 66612

Re: American Family Insurance's support for Senate Bill 16

Mr. Chairman and Members:

American Family Insurance insures approximately thirteen percent of the automobiles and homes in the state. We offer insurance products through some 200 appointed producers who reside throughout the state.

We support Senate Bill 16. Senate Bill 16 amends K.S.A. 40-908 to reinstate the original spirit and intent of the statute by restricting the scope of the statute to property losses due to fire, tornado, lightning or hail. The original K.S.A 40-908 was enacted in 1927. At that time, insurance policies were offered on a named peril basis (e.g., loss due to fire or wind) or per line basis (e.g., coverage for a property or liability loss). Over the years, insurance companies developed package insurance policies which include coverage from two or more lines (e.g., property and liability) in one policy.

Bussman v. Safeco involved an underinsured motorist claim on a commercial automobile insurance policy which also included coverage for property damage due to fire, lightning and hail. In *Bussman*, the Kansas Supreme Court held the plain language of statute provides the type of policy, not the type of loss, controls that applicability of K.S.A. 40-908 and upheld the award of attorney fees on the underinsured motorist claim. The Court acknowledges the result may not be consistent with original legislative intent of the statute but emphasizes the legislature has not modified K.S.A. 40-908 since the popularization of package insurance policies.

In *Bussman*, the Court almost invites the legislature to review K.S.A. 40-908. Senate Bill 16 is the legislative remedy to reinstate the original intent of statute.

We urge you to support Senate Bill 16. Thank you for the opportunity to provide this information to the committee.

David Monaghan