

TO: Members of the Senate Committee on the Judiciary

FROM: Craig Harms
Small Business Owner

DATE: January 19, 2015

RE: K.S.A. 40-908 and S.B. 16

Dear Representatives:

My name is Craig Harms. I am a Wichita area real estate investor, and I own and operate a used car dealership in Newton, Kansas. Thank you for the opportunity to testify in opposition to S.B. 16.

My partners and I recognize that there are a number perils that pose a risk of financial loss and threaten the viability of our businesses. In an attempt to manage that risk, we purchase insurance, which is an important component of our business. My businesses pay significant premiums to cover a litany of risks, including, but not limited to, fire, tornado, lightning and hail. Examples that come to mind include theft, vandalism, automobile collision, and liability coverages.

K.S.A. 40-908 is a remedial statute that affords an attorneys fee to a policyholder where he is forced to litigate against his insurance company on a policy that includes property coverage for the perils of fire, lightning, tornado, or hail, and he prevails. In other words, the insurance company bears the financial risk that its decision to deny coverage is wrong. S.B. 16 would amend K.S.A. 40-908 such that it would only apply to claims for losses caused by fire, tornado, lightning or hail, and even then only to claims for damage to “real property and the contents of real property” (whatever that means). Those changes would be bad for me and my business.

When I pay a premium, I expect that the insurance company will honor its promises, without delay, and without making me go to the trouble and expense of hiring a lawyer to get what I paid for. Under the right circumstances, a wrongful denial of a claim – or even an unreasonable delay in payment – could put me out of business and my employees out of a job.

As a property owner, I am concerned that S.B. 16 will eliminate my current protection on insured claims for wind damage, explosion, sewer back, vandalism, malicious mischief, burglary, etc.

As vehicle owner, I am concerned that S.B. 16 will eliminate my current protection on all coverages under my auto policy, including, but not limited to, damage caused by fire, tornado, lightning and hail.

As a car dealer, I am concerned that S.B. 16 will eliminate my current protection on insured claims for damage to my vehicle inventory in the lot, from any peril. This includes not only fire, tornado, lighting, and hail, but also vehicle collision and theft.

As an individual and a businessman, I am concerned that S.B. 16 will eliminate my current protection on liability claims if I am sued.

If passed, S.B. 16, will provide a windfall to the insurance industry at my expense and at the expense of my businesses.

I urge you to make no change that would limit the scope of K.S.A. 40-908. If you must amend K.S.A. 40-908, make it apply to all insurance coverages.



Craig Harms