KANSAS TRIAL LAWYERS ASSOCIATION

To: Rep. Susan Humphries, Chair
Members of the House Judiciary Committee

From: Callie Jill Denton, Executive Director

Date: January 29, 2026

Re: HB 2351 Concerning arbitration (SUPPORT, written only)

Thank you, on behalf of the Kansas Trial Lawyers Association, for the opportunity to provide testimony in support of passage of HB 2351.

HB 2351 restores an important provision of Kansas' Uniform Arbitration Act that prohibits arbitration in contracts of insurance. The provision was repealed when extensive revisions and updates to the Act were passed as part of Kansas' adoption of the Revised Uniform Arbitration Act (KRUAA).

KTLA believes that the failure to include the prohibition in the KRUAA was an inadvertent omission. Nevertheless, current law now permits insurance companies to require policyholders to enter mandatory arbitration agreements for future disputes when they purchase or renew coverage. And since its passage in 2018, the new law has proven to be undeniably detrimental to Kansans.

The House Judiciary Committee received testimony in 2024 from policyholders about the effect of the new law. Consumers will again testify to their experiences with insurance arbitration/appraisal that justify the need for HB 2351. And the new law will continue to harm Kansas insurance consumers until the Legislature acts.

The prior law is not an indictment against arbitration. It does not prevent insurance companies and policyholders from agreeing to arbitrate a dispute after one occurs. What it does is level the playing field between policyholders and insurance companies. It prevents insurers from *requiring* policyholders to arbitrate and protects policyholders from unknowingly signing an arbitration agreement. It is a statutory safeguard assuring

both parties agree to arbitrate in the context of a current dispute, an understanding of the pros and cons of arbitration, and in full consideration that they may be waving their right to access the court.

Kansas' historical law and policy weigh in favor of passing HB 2351. Contract provisions requiring arbitration of future disputes were prohibited until the KUAA was passed. The prohibition against arbitration of insurance contracts was enacted with the KUAA in 1973 and endured until 2018.

Kansas' prior law differed from the Uniform Arbitration Act and the Revised Uniform Arbitration Act, neither of which prohibited insurance arbitration. Some states like Kansas carved out exceptions, while others passed the UAA and RUAA without any exception. However, Kansas' history of prohibiting arbitration in future contracts and in insurance contracts, is more compelling than decisions of other states to permit arbitration.[i]

KTLA supports the conclusions of the Judicial Council Civil Code Advisory Committee in its December 6, 2024, report when it recommended a preference for restoring the prohibition, because it " … promotes the evenhanded, predictable, and consistent development of legal principles." KTLA supports HB 2351 and urges the House Judiciary to pass it favorably.

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[i] The Report of the Judicial Council Civil Code Advisory Committee on HB 2024 HB 2593 (December 6, 2024) reviewed other state's implementation of the 2000 UAA and if their laws included provisions like the one in 2024 HB 2593 (the bill would have restored the prohibition on arbitration in insurance). The Advisory Committee also reviewed states that regulate arbitration in their insurance codes, not in their arbitration acts. In the report, the Committee noted that states have taken various approaches and that "…as many as half of the states have laws limiting or prohibiting mandatory arbitration clauses in insurance contracts."

KTLA's summary review of state laws in 2026 is that states are relatively evenly divided, with 15 states prohibiting arbitration in insurance, and 20 states including Kansas permitting it. Kansas' long history of prohibiting arbitration in future contracts, and in contracts of insurance, is more compelling direction for Kansas law and policy than other state laws..

These states *prohibit arbitration* in contracts of insurance: Arkansas, Georgia, Hawaii, Kentucky, Louisiana, Missouri, Montana, Nebraska, Oklahoma, Oregon, South Carolina, South Dakota, Utah, Virginia, Washington.

These states permit arbitration in contracts of insurance: Alaska, Arizona, Connecticut, Delaware, Florida, Idaho, Indiana, Kansas, Maine, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Texas, Vermont, Wisconsin.