

HB 2461 House Committee on Insurance

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I recently retired from a property and casualty claims management position with an insurance company. Knowing my past occupation, a friend of mine approached me with some questions relating to a claim she had under her homeowner's policy. She and her husband had an attic fire that caused them to be displaced from their home.

My friend presented me with several problems she and her husband were having with the claim. I gave her some information and suggestions on how to proceed. Over the next several weeks my friend returned with new problems, concerns and unresolved issues.

I again gave her some suggestions and wished her well. She kept returning, more frustrated each time. I suggested that she contact a law firm. A few days later she returned and notified me that she and her husband had contacted numerous law firms and none were interested in assisting her in this matter.

I found this hard to believe so I called several law firms in an attempt to find someone to help her. I found the same lack of interest from every law firm I contacted. One attorney stated, "I get those calls all the time, frankly there's no money in it. I've got a house fire case right now and I don't know what to do with."

I was based in Missouri throughout my career so I was not well-versed in first party claims in Kansas. I began digging into the situation in Kansas. It soon became clear that Kansas wanted to keep public adjusters from handling first party personal lines claims in Kansas. Personal lines claims may also be referred to as residential or homeowner's claims.

My research found Kansas Attorney General's opinion 2025-22 regarding the Kansas Law governing public adjusters. The opinion is a matter of record and is clearly the impetus for the proposed legislation under consideration. The AG's opinion was issued in response to a request from Kansas Insurance Commissioner Vicki Schmidt.

A first party claim is a claim made by the policyholder against their insurance policy. The policyholder has sustained a loss caused by a peril they believe to be covered under their policy of insurance.

I found it confusing as to why Kansas Law allows public adjusters to represent commercial lines policyholders but not homeowners. In my experience, commercial policyholders are people engaged in business, with a higher income and higher level of education. Typically the commercial policyholder is better equipped to present their claim and resolve any differences without the need for outside assistance.

I suspect that commercial policyholders have organizations who work on their behalf to ensure that they have access to public adjusters. It would appear that homeowners don't have lobbyists working on their behalf.

Having worked in the property and casualty claims field for 20 years, with the last 7 years being in management, I never thought I would want to be a public adjuster. I supervised 9 field adjusters in the St. Louis market and I have dealt with some of the most aggressive public adjusters in the Midwest.

Most field adjusters have little if any background in the construction or restoration trades. They are taught by their employers and sent to the field to work claims. While their intentions may be good, there are many instances where the adjuster's incompetence is costly to the homeowner and the insurer.

My file audits of those I supervised found as many claims we overpaid, as those we underpaid. Needless to say, we never heard from those we overpaid, just from those we underpaid. A good indicator that we overpaid was a letter from the policyholder complimenting their adjuster.

During my research into the situation in Kansas it became clear to me that there is an unmet need in Kansas. I decided to apply for a public adjuster's license in Kansas and see if I could improve the situation.

I don't want to be anything like the public adjusters I dealt with in St. Louis or Kansas City. First and foremost, I am a Christian. Money is not my god. I will not lie, cheat or steal for money.

The flaw in the public adjuster system is that the public adjuster has a financial motive to inflate a claim. Much like the endless personal injury lawyer ads on T.V, buses and billboards, public adjusters lure in the policyholder with promises that they will get more money for their client.

Then the public adjuster sets out to drive a wedge between the insured and their insurer. This tends to exacerbate a claim that is already in dispute. It only serves to benefit the public adjuster, at the expense of all other consumers.

Kansas can become a leader by enacting legislation that eliminates some of the financial motive to inflate the claim. Codifying an hourly rate, not to exceed a percentage of the claim would be one idea. The law firms we used in Missouri charged us \$85.00 an hour for para-legal services. This is the amount I plan to charge my clients. I think it is sufficient for the type of work performed by a public adjuster.

Not allowing public adjusters to collect a percentage of the settlement amount offered by the insurer prior to the public adjuster's involvement would be another idea. For example, if the insurer offered a settlement of \$100,000 prior to the public adjuster's involvement, and increased the settlement offer to \$150,000 after the public adjuster's involvement, then the maximum amount available to the public adjuster should be 10% of \$50,000.

The standard homeowner's policy contains an appraisal clause, for the purpose of resolving settlement disputes. Kansas could become a leader in this area by licensing and regulating insurance appraisers and umpires, whose roles are outlined in the appraisal clause of the policy. Licensing and regulating these roles would benefit the insurer and the insured by creating a pool of knowledgeable professionals who should be able to resolve disputes without litigation.

As research has shown, speeders who are warned but not ticketed, continue to speed. Any bad behavior that is not punished will continue until sufficiently punished. I believe there should be punitive damages assessed against an insurer for unfair claims practices. The Missouri Vexatious Refusal Statute is a good model. It limits punitive damages but makes it sting enough to get the insurer's attention.

Finally, I do not believe the proposed legislation is constitutional. The fourteenth amendment to the U.S. Constitution, the Equal Protection Clause, prohibits states from passing laws that treat different classes of people differently. This legislation clearly empowers commercial policyholders and weakens homeowner's policyholders.

Thank you for your time.