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**LICENSED TO PRACTICE IN
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TESTIMONY OF BOB ALDERSON
ON BEHALF OF THE
NATIONAL ASSOCIATION OF PUBLIC
INSURANCE ADJUSTERS
BEFORE THE SENATE COMMITTEE ON
FINANCIAL INSTITUTIONS AND INSURANCE

February 13, 2013

Senator Olson and Members of the Committee:

I am Bob Alderson, an attorney in private practice in Topeka, and I am appearing today on behalf of the National Association of Public Insurance Adjusters ("NAPIA") in support of Senate Bill No. 138, which would amend K.S.A. 2012 Supp. 40-5502, which is the definitions section of the Public Adjusters Licensing Act. That act is codified at K.S.A. 2012 Supp. 40-5501 *et seq.* Appearing with me today is Ron Reitz, President of NAPIA, who also will testify in support of SB 138. Prior to his testimony, my principal purpose will be to discuss the circumstances giving rise to the introduction of SB 138 and to discuss the bill itself.

Currently, 45 states, plus the District of Columbia, license public insurance adjusters. Thus, the vast majority of states license public insurance adjusters. Each state that borders Kansas (Colorado, Nebraska, Missouri and Oklahoma) has a comprehensive licensing bill regulating public insurance adjusters. Of the five states that do not have such licensing laws (Alabama, Alaska, Arkansas, South Dakota and Wisconsin), four of those states allow the lawful practice of public insurance adjusting. Arkansas is the only state which does not allow public insurance adjusting.

Before discussing SB 138, I think it would be helpful to note there are essentially two types of insurance claims adjusters: Company adjusters and public adjusters. As the name implies, company adjusters provide their services to insurers, and they may either be employees of insurance companies or independent contractors. Regardless, they adjust claims on behalf of insurance companies.

Senate Financial Institutions & Ins.

Date: _____

Attachment # _____

Public adjusters, on the other hand, represent insureds in formulating and presenting their insurance claims. Licensing laws in Kansas and in other states universally limit public adjusters to processing first party claims, i.e., claims presented by an insured to the insured's insurance carrier. Processing third-party claims (claims made against a third party or the third party's insurance carrier) by public adjusters is universally prohibited as constituting the unauthorized practice of law. Those are the limitations embodied in the Public Adjusters Licensing Act.

For many years, public adjusters licensed in other jurisdictions engaged in business in Kansas, based on a letter opinion of the Kansas Attorney General's office advising that, as long as public adjusters did not engage in the unauthorized practice of law, public adjusters could engage in business in Kansas without being licensed in Kansas. However, about six or seven years ago, the Consumer Affairs Division of the Kansas Insurance Department ("Department") began issuing "alerts" to consumers, advising that public adjusters responding to disasters were not licensed in Kansas. Thus, in the summer and fall of 2008, I met with Insurance Commissioner Sandy Praeger and members of the Department, to discuss the need to license public adjusters. As part of that process, I submitted to the Department a draft of a licensing bill patterned after legislation enacted in a number of other states. The Department thoroughly reviewed the draft and made a number of suggestions to make the draft consistent with the agents' licensing law and other statutes administered by the Department. All of the Department's suggestions were incorporated in the bill draft.

In addition to the Department's technical, conforming amendments, the Department also requested that licensed public adjusters be limited to handling claims for loss and damage covered by commercial lines insurance contracts. That limitation was proposed by the Department in deference to the Department's Consumer Affairs Division, which expressed concern that public adjusters would take advantage of consumers. NAPIA was opposed to that limitation, noting that no other state's public adjuster licensing law imposed a similar restriction. However, because NAPIA did not want to pursue passage of a bill opposed by the Department, NAPIA agreed to include such restriction in the bill, with the understanding that, if public adjusters demonstrated compliance with the licensing law, the Department would not oppose removal of the restriction at a later date.

The bill containing this restriction was introduced in this committee and was enacted in 2009. Since that time, I have not been made aware of any serious complaint regarding public adjusters licensed in Kansas. In fact, in a meeting Ron Reitz and I had with Commissioner Praeger and members of her staff on September 26, 2012, we requested the Department to provide us with information regarding any complaints received by the Department regarding public adjusters. No such information was forthcoming. Thus, the purpose of SB 138 is to remove the definitional provision which restricts public adjusters to handling claims covered by commercial lines of insurance.

I also anticipated that Rebecca Crumbaker would testify this morning in support of SB 138. However, as I drafted this testimony, I became aware that, due to a serious illness in her family, Ms. Crumbaker would not be able to appear, but she has submitted written testimony which has been provided to the Committee. Her testimony is focused on the claim for property damage she and her husband have submitted to their insurer. The Crumbakers live in north central Kansas and their residence and personal automobiles are insured under a personal lines insurance policy. The Crumbakers have an agricultural business, a hog farm, located nearly 70 miles from their residence. The Crumbakers do not have a residence or other personal property situated on the property where the hog farm is located; yet, the hog farm also is insured under the same policy which insures the Crumbakers' residence and personal automobiles.

The Crumbakers' hog farm suffered significant property damage resulting from one or possibly two tornados and high winds, and they attempted to engage a public adjuster licensed in Kansas to assist in preparing their claims with their insurer for loss and damage to their business. However, after consultation with the Department, the insurer advised the Crumbakers that it would not communicate with a public adjuster, because the loss and damage was covered by a personal lines insurance policy. Even though the property damage occurred on a commercial facility, a public adjuster was prevented from handling the claim because the loss and damage was covered by a personal lines insurance policy. Thus, the Crumbakers engaged me to assist them in pursuing their claims. I, in turn, engaged as my consultant the public adjuster whom the Crumbakers had attempted to hire.

Although the claims work is being handled by the public adjuster under my supervision and we will no doubt arrive at the same results that would have obtained if I had not been retained by the Crumbakers, my involvement just adds another layer of unnecessary expense. Situations like this can be avoided in the future by passage of SB 138, thereby allowing licensed public adjusters to handle claims for loss and damage covered by all lines of property and casualty insurance.

Thank you for the opportunity to appear before the Committee. I will be happy to respond to questions from members of the Committee at the appropriate time.