

TO: The Honorable Tim Owens, Chair
Senate Judiciary Committee

FROM: William W. Sneed, Legislative Counsel
The State Farm Insurance Companies

SUBJECT: S.B. 396

DATE: February 16, 2012

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent the State Farm Insurance Companies (“State Farm”). State Farm is the largest insurer of homes and automobiles in Kansas. State Farm insures one out of every three cars and one out of every four homes in the United States. Please accept this testimony as our opposition to S.B. 396 in its current form.

We certainly understand the bill’s proponents’ concept of trying to create a more definitive system relative to the rights of individual adjacent landowners as it relates to lateral support. The law in Kansas can be somewhat confusing, and the rights and duties are difficult to ascertain. Certainly we could see ourselves dealing with an insured who would be frustrated by their inability to take appropriate steps to protect their property relative to a laterally-supported property.

However, we believe that S.B. 396 is overbroad in its current form. As we read the bill, if enacted, the State would be creating an absolute right for a particular group of landowners, notwithstanding the facts surrounding the situation. Further, it appears that the bill would also create a cause of action under strict liability theory. Generally, under negligence types of situations, Kansas is leery of imposing strict liability as our negligence system is based on a comparative fault standard.

Again, we certainly understand the reason the issue is being raised, and perhaps the Committee could consider dealing with this issue on an interim basis in future.

Based upon the foregoing, we respectfully request that the Committee not act favorably on S.B. 396. I am available for questions at your convenience.

Respectfully submitted,

William W. Sneed

WWS:kjb

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