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The Honorable Robert Olson, Chairperson
Senate Committee on Financial Institutions and Insurance
Statehouse, Room 236-E Topeka,
Kansas 66612

Dear Mr. Chairman and Members of the Committee:

American Family Insurance is the second largest writer of automobile and homeowners insurance in the state. We offer insurance products through some 170 appointed producers who reside throughout the state.

We support Senate Bill 323 as introduced; however, we oppose the balloon amendment.

We agree the meaning of the term "substitution of similar coverage" as used in Section 40-2,121 is ambiguous and may lead to litigation as to whether new terms and conditions in a revised policy are enforceable. Thus, we support the goal to clarify the meaning of the phrase "substitution of similar coverage" by establishing a safe harbor provision.

To the extent possible, the elements and conditions necessary to meet the standards in a safe harbor should be as clear, objective, and measurable as possible. The balloon amendment requires insurers to include a notice which "clearly indicate(s) each change to the policy being made on renewal" in "plain language." The terms "clearly indicate" and "plain language" are undefined and qualitative. It would not be unusual for reasonable people to reach different conclusions on whether a particular renewal notice "clearly indicate(s) each change to the policy being made on renewal" in "plain language."

We believe the lack of clarity in the notice standards set forth in the balloon amendment will undermine the effectiveness of the safe harbor.

It may also be of interest to committee members that the states of Georgia and Missouri passed laws in 2018 to address the same type of concerns present in the Kansas law. The customer notice requirements set forth in those states are very similar to those contained in the introduced version of Senate Bill 323.

If the committee decides to include any notice requirements to qualify for the safe harbor beyond those contained in the introduced version of Senate Bill 323, we respectfully request that the committee also include language in the bill which clarifies that the Insurance Department shall have the sole authority to enforce the provisions of the act.

Thank you for considering our comments on this legislation.

Sincerely,

David Monaghan

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American Family Insurance Amendment to SB 323

The amendment to be added to each section (or in a new section which applies to all three sections):

“The Department of Insurance shall have the exclusive authority to enforce the provisions of this section. Nothing in this section shall be deemed or construed to create a private cause of action or any private remedy based upon any failure to comply with the requirements set forth in this section . ”