

Our mission

To act as the Ohio property and casualty insurance industry's voice on matters affecting or involving the industry.

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Opponent Testimony—SB 131 Damaged Vehicle Value Determination (Cutrona)

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Chair Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee, thank you for the opportunity to testify in opposition to Senate Bill 131.

I am Michael Farley, and I have the distinct honor to serve as the Vice President, Government Affairs and General Counsel for the Ohio Insurance Institute (“OII”). The OII is a trade and information association of more than 55 Ohio-based property and casualty insurance companies and related affiliate organizations. OII members write approximately 90% of auto insurance in Ohio and 81% of home insurance. And OII members write more than three-quarters of the commercial insurance in the state.

Mr. Chairman, I add a caveat to our opposition to this legislation. Sen. Cutrona and I had two very productive conversations before the Senate recessed for the summer months. Our opposition is to the version that was introduced—I am confident that additional conversations will lead to something our industry does not oppose.

I do believe it is important for the Committee to understand the problems with the bill so that they may understand any future amendments that Sen. Cutrona may agree upon to improve the bill.

I wish to point out to the Committee that any solution to remedy the overbreadth and ambiguity of this legislation must keep a guiding principle in mind. As my colleague from the plaintiff’s bar noted in his proponent testimony, the Committee should be aware of the construct clarified in *Rakich v. Anthem Blue Cross & Blue Shield*, 2007-Ohio-3739. In particular, then Judge French admonished, “We agree with appellees that a plaintiff may not recover both the cost of repairs to her vehicle and the difference in the market value of the vehicle immediately before and immediately after the accident.” (*at P13*).

Double recovery for such post-crash damage is enigmatic to the insurance mechanism. Due to the nature of the language in SB 131, there are potentially areas that double recovery may occur. Future amendments must be crystal clear that double recovery is not an expectation of this legislation.

I do wish to take umbrage with an ad hominem attack on the insurance industry made by proponents representing the plaintiff’s bar. Counsel made claims of unsubstantiated

“windfalls” and claims that an insurer is adverse to their insured in the claims process. I chose not to follow down the path of my colleague and issue attacks on an entire industry of plaintiff’s counsel that practice in this space—many of whom are friends of mine. Instead, I take this opportunity to praise the nearly 27,000 Ohioans who get up each day to provide protection to motorists, families, businesses, and individuals. These professionals step up each day and meet people on some of the worst days of their lives and have very difficult decisions. The mechanism of insurance is intended to return parties to the position they were in prior to the accident. Most of us have been involved in accidents. The claims process can be frustrating—even for an insurance attorney like me. However, I never doubt that our friends, church seatmates, youth league coaches, local volunteers, and hard-working Ohioans involved in the insurance industry have anything but the best of intentions and efforts during the claims process.

As promised, the Ohio Insurance Institute is putting finishing touches on new language to present to Sen. Cutrona. We are working with all due speed. Our language will reflect a narrower approach that helps address the problem Sen. Cutrona has identified. We thank Sen. Cutrona for his conversations, willingness to work together, and most of all—his patience.

Mr. Chairman, I thank you and the rest of the members of the Senate Judiciary Committee for the opportunity to speak about SB 131. I am happy to discuss any questions Senators may have.