

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Ray Cox at 3:30 P.M. on January 19, 2005 in Room 527-S of the Capitol.

All member were present except:

Representative Bob Grant-excused
Representative Oletha Faust-Goudeau-excused
Representative Ed O'Malley-excused

Committee Staff present:

Bruce Kinzie - Revisor's Office
Melissa Calderwood - Legislative Research Department
Michele Alishahi - Legislative Research Department
Patti Magathan - Committee Secretary

Conferees appearing before the committee:

Kevin Glendening-Kansas Banking Department
Judi Stork-Kansas Banking Department
Bill Henry-Kansas Credit Union Association
Doug Wareham-Kansas Banking Association

Others attending:

See Attached List

Representative Cox welcomed the committee and opened the floor for bill introductions.

Kevin Glendening, Kansas Banking Dept., requested that two bills be introduced. 1) A bill containing proposed amendments to K.S.A. 16a-2-401, 16a-2-201, and 16a-2-202 pertaining to interest rate limitations on certain consumer credit transactions. 2) A bill containing proposed amendments to several sections of the Kansas Uniform Consumer Credit Code primarily relating to prohibited activities and powers of the Administrator. **(Attachment 1)**

Representative Cox said that without objection the bills would be introduced.

Judi Stork, Kansas Banking Department, requested that two bill be introduced. 1) Relates to a bank's ability to offer health savings accounts and medical savings accounts without trust powers. 2) A statute that pertains to exchange of exams and reports. Who they can exchange that information with. They want to add Office of Thrift Supervision and Financial Crimes Enforcement Network. **(Attachment 2)**

Representative Cox said that without objection the bills would be introduced.

Bill Henry, Director of Governmental Affairs for Kansas Credit Union Association.would like to introduce a bill that would give parity to Kansas credit unions compared to foreign based credit unions. Modeled after 2001 legislation passed for Banks and Savings and Loans, it would be used to help benefit and level the playing field and to provide parity (K.S.A. 17-2244) **(Attachment 3)**

Representative Cox said that without objection the bill would be introduced.

Doug Wareham, K.B.A., submitted two requests. 1) Amend the Mortgage Release Statute K.S.A. 58-2309a(a) by adding specific language to allow banks to pass on the fee for releasing a mortgage to the customer. 2) Amend K.S.A. 8-135(5) to ensure that liens in Kansas can be perfected on titles issued by authorized Indian Tribes. **(Attachment 4)**

Representative Cox said that without objection the bills would be introduced.

The meeting adjourned at 3:38 p.m.

Next meeting is scheduled for Wednesday, January 26, at 3:30 p.m.

House Financial Institutions Committee

Mr. Chairman and members of the Committee:

I would like to request introduction of two bills.

First, a bill containing proposed amendments to K.S.A. 16a-2-401, 16a-2-201, and 16a-2-202 pertaining to interest rate limitations on certain consumer credit transactions.

Second, a bill containing proposed amendments to several sections of the Kansas Uniform Consumer Credit Code primarily relating to prohibited activities and powers of the Administrator.

HOUSE BILL NO. _____
By Committee on Financial Institutions

AN ACT relating to banks; concerning trust authority; amending K.S.A. 9-1601 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 9-1601 is hereby amended to read as follows: 9-1601. (a) Any bank, upon the affirmative vote of at least ~~two-thirds (2/3)~~ 2/3 of the voting stock, may apply to the commissioner ~~and upon~~ for approval to conduct trust business. If approval is granted by the commissioner ~~and~~, a special permit ~~issued thereon~~ shall be issued and the bank shall be authorized and empowered, subject to such conditions as the commissioner may require, to act in one or more fiduciary capacities as agent, trustee, executor, administrator, registrar of stocks and bonds, conservator, assignee, receiver, custodian, transfer agent, corporate trustee, corporate agent or in any other fiduciary capacity in the same manner in which trust companies incorporated under the laws of this state are permitted to act, including but not limited to the right of succession to individuals, corporations, associations, national bank associations or others, with or without reappointment, in any such office or capacities. ~~The commissioner may approve and issue a special permit to the bank to act in one or more of such fiduciary capacities. However,~~

(b) If the governing instrument limits investment of funds to deposit in time or savings deposits in the bank, any bank may act as trustee or custodian ~~of~~ for any of the following without being issued a special permit:

(1) Individual retirement accounts established pursuant to section 408 of the federal internal revenue code of ~~1954~~ 1986, and amendments thereto, ~~or;~~

(2) trusts established pursuant to section 401 of the federal internal revenue code of ~~1954~~

1986, and amendments thereto, without being issued a special permit to act in such capacity;

(3) medical savings accounts established pursuant to section 220 of the federal internal revenue code of 1986, and amendments thereto; and

(4) health savings accounts established pursuant to section 223 of the federal internal revenue code of 1986, and amendments thereto.

(c) Any state bank having been granted trust authority by the bank commissioner of the state of Kansas may add "and trust company" to its corporate name as previously approved by the state banking board.

Sec. 2. K.S.A. 9-1601 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL NO. _____
By Committee on Financial Institutions

AN ACT relating to banks and trust companies; concerning the exchange of certain examinations and reports; amending K.S.A. 9-1303 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 9-1303 is hereby amended to read as follows: 9-1303. (a) The state bank commissioner is hereby authorized to accept any report of examination of a state bank or trust company made ~~within a reasonable period~~ by the federal deposit insurance corporation or its successor, or by the federal reserve bank ~~or by the certified public accountant or independent auditor auditing the accounts of any bank or trust company insured by a private insurer, as authorized under the provisions of this act~~, but only one such report of examination shall be accepted in lieu of any examination required by this act in any one calendar year. The commissioner also may accept any report obtained by the federal deposit insurance corporation, the federal reserve bank ~~or private insurer within a reasonable time~~ relative to the condition of any bank or trust company in lieu of any report required by this act.

(b) The commissioner shall furnish to the federal deposit insurance corporation ~~or private insurer~~, or to any officer or examiner thereof, a copy of any or all examination reports made by the commissioner, or the commissioner's examiners, of any bank or trust company insured by the such corporation ~~or insurer~~. The commissioner may disclose to the federal deposit insurance corporation ~~or private insurer~~, or any official or examiner thereof, any and all information contained in the commissioner's office concerning the condition ~~of affairs~~ of any bank or trust company insured by such corporation ~~or insurer~~.

(c) The commissioner may disclose to the federal reserve bank, office of the comptroller of

currency, the federal home loan bank, and other state bank regulatory agencies, trust company and savings and loan regulatory agencies, the office of thrift supervision and the financial crimes enforcement network, or any officer or examiner thereof, any and all information contained in the commissioner's office concerning the condition of affairs of any bank or trust company.

(d) The commissioner may furnish to the state treasurer a copy of any or all examination information relating specifically to apparent violations of the uniform unclaimed property act, K.S.A. 58-3934 through 58-3978, and amendments thereto.

(e) The commissioner, by agreement, may establish an information sharing and exchange program with a functional regulatory agency that has overlapping regulatory jurisdiction with the department, with respect to all or part of an affiliated group that includes a financial institution, to reduce the potential for duplicative and burdensome filings, examinations and other regulatory activities. Each agency party to such an agreement shall agree to maintain confidentiality of information that is confidential under applicable statute or federal law and to take all reasonable steps to oppose any effort to secure disclosure of the information by such agency.

(f) Disclosure of information by or to the commissioner pursuant to this section shall not constitute a waiver of or otherwise affect or diminish a privilege to which the information is otherwise subject, whether or not the disclosure is governed by a confidentiality agreement.

(g) As used in this section: (1) "Affiliated group" means two or more persons affiliated through common ownership or a contractual common undertaking involving the sharing of customer information among such persons;

(2) "agency" means a department or agency of this state, another state, the United States or

any related agency or instrumentality;

(3) "functional regulatory agency" means an agency that regulates and, charters, licenses or registers persons engaged in activities that are financial in nature, incidental to financial activities, or complementary to financial activities, as those terms are used in the Gramm-Leach Bliley act of 1999 (P.L. 106-102), including activities related to banking, insurance or securities, within the jurisdiction of the agency;

(4) "privilege" includes any work product, attorney client or other privilege recognized under federal or state law.

(h) Nothing in this act shall be construed to limit the powers of the commissioner with reference to examinations and reports required by this act.

Sec. 2. K.S.A. 9-1303 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL No. XXXX

By Committee on Financial Institutions

AN ACT concerning credit unions; relating to the authority to issue special orders; amending K.S.A. 17-2244 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

K.S.A. 17-2244 is hereby amended to read as follows:

17-2244. Authority to operate in same activities as any federally insured credit unions; powers of administrator; report to legislature. (a) In addition to any and all other powers heretofore granted to the credit union administrator, the administrator shall have the power to authorize any credit union to engage in any activity in which such credit union could engage were they operating as a ~~federal chartered or~~ federally insured credit union at the time such authority is granted, including but not by way of limitation because of enumeration, the power to do any act, and own, possess and carry as assets, property of such character including stocks, bonds or other debentures which, at the time such authority is granted, are authorized under ~~federal laws~~ **applicable laws** and regulations for transactions by ~~federal or~~ federally insured credit unions notwithstanding any restrictions elsewhere contained in the statutes of the state of Kansas. Upon receipt of a written request from any state chartered credit union, the administrator shall exercise such power by the issuance of a special order therefor if the administrator deems it reasonably required to preserve and protect the welfare of such an institution and promote the general economy of this state. The issuance of such special orders shall not be subject to the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated.

(b) The administrator shall, at the time of issuing any special order pursuant to this section, submit a written report thereof to the president and the minority leader of the senate and to the speaker and the minority leader of the house of representatives and the credit union council.

1 AN ACT concerning credit unions; relating to the authority to issue special orders; amending K.S.A. 17-
2 2206 (e) and repealing the existing section.

3

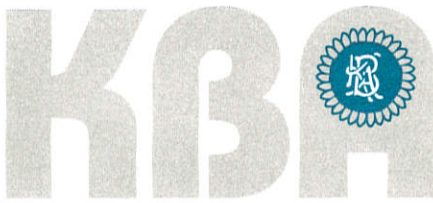
4 *Be it enacted by the Legislature of the State of Kansas:*

5 K.S.A. 17-2206 (e) is hereby amended to read as

6 follows:

7

8 17-2206. Supervision by administrator; reports, plans and programs;
9 penalties ; examination, fees. (e) Each credit union shall pay to the administrator a
10 fee for examination, established in accordance with this subsection. **Each foreign credit**
11 **union shall pay the same fees in accordance with this sub section that are charged to**
12 **state-chartered credit unions for examination and regulation.** Prior to June 1 of each
13 year, the administrator, after advising the credit union council, shall establish such annual
14 fees as the administrator determines to be sufficient to meet the budget requirements of
15 the
16 department of credit unions for the fiscal year beginning July 1. Such fees shall be due
17 and payable 30 days after receipt of billing from the department of credit unions.



Date: January 19, 2005
To: House Financial Institutions Committee Members
From: Doug Wareham, Vice President-Government Affairs
Re: Bill Introduction Requests

The Kansas Bankers Association respectfully requests the introduction of two bills addressing the issues outlined below:

- **Mortgage Release Statute**-KBA has received several calls from Kansas bankers asking, “where in Kansas statutes are banks allowed to pass on the fee for releasing a mortgage to the customer?” While KBA contends K.S.A. 58-2309a(a), the statute in reference, in no way prohibits banks from passing this fee on to the customer and an Attorney General’s opinion supports KBA’s assumption, it would be clearer for banks, title companies and bank customers if specific language were included in K.S.A. 58-2309a(a) expressly stating the fees can be passed on to the mortgagor.
- **Security Interests in Vehicles Titled Under Indian Nation Laws**-The registration of motor vehicles by the Prairie Band of Potawatomi Indian Nation has created the need to amend K.S.A. 8-135(5) to ensure that liens in Kansas can be perfected on titles issued by authorized Indian Tribes. Similar changes were enacted in Oklahoma last year, so model language does exist. KBA’s legal department has been working directly with the Motor Vehicle Registration Officer of the Prairie Band Nation to ensure their vehicle codes are in line with Kansas Division of Motor Vehicle Codes.

Thank you for the opportunity to present these bill introduction requests. Should you require additional information please contact Doug Wareham or Kathy Olsen at (785) 232-3444.

House Financial Institutions
January 19, 2005
Attachment 4
Doug Wareham

Kansas Bankers Association
Proposed Amendment Regarding Mortgage Release Laws

58-2309a. Entry of satisfaction of mortgage; duties and liability of mortgagee or assignee of mortgage; entry of satisfaction of mortgage by lender or closing agent, when. (a) When the indebtedness secured by a recorded mortgage is paid and there is no agreement for the making of future advances to be secured by the mortgage, the mortgagee or the mortgagee's assignee shall enter satisfaction or cause satisfaction of such mortgage to be entered of record forthwith, paying the required fee. **The fee may be collected from the mortgagor pursuant to K.S.A. 16-207, and amendments thereto.** In the event the mortgagee or the mortgagee's assignee fails to enter satisfaction or cause satisfaction of such mortgage to be entered within 20 days after written demand by certified or registered mail, the lender or a designated closing agent acting as a closing agent in the sale, financing or refinancing of the real estate subject to such mortgage, who upon reliance of written payoff information provided by the mortgagee, and which payoff information shall be deemed as the correct and full amount due and owing under such mortgage, has caused the indebtedness to be paid in full may cause satisfaction of the mortgage to be entered. If in fact the mortgagee or mortgagee's assignee was not paid in accordance with the aforesaid payoff information when the mortgage was released the lender or the closing agent in the sale, financing or refinancing of the real estate subject to such mortgage who signed the false release shall be liable in damages to the mortgagee or mortgagee's assignee for the entire indebtedness together with interest thereon, attorney fees, and any additional damages that the mortgagee or mortgagee's assignee has incurred. Upon recording of such satisfaction by the lender or closing agent in the sale, financing or refinancing of the real estate subject to such mortgage, who has caused the indebtedness to be paid in full, such mortgage shall be deemed fully released as if discharged by the mortgagee or mortgagee's assignee.

(b) When a mortgage is recorded covering real estate in which the mortgagor has no interest, the mortgagee or the mortgagee's assignee shall enter satisfaction or cause satisfaction of such mortgage to be entered of record, paying the required fee without charge to the mortgagor or the mortgagor's assigns.

(c) The following persons may make demand upon a mortgagee or assignee of a mortgagee for the entering of satisfaction of the mortgage, as provided for in subsections (a) and (b):

(1) A mortgagor, a mortgagor's heirs or assigns or anyone acting for such mortgagor, heirs or assigns;

(2) an owner of real estate upon which a mortgage has been recorded by someone having no interest in the real estate; or

(3) a lender or designated closing agent acting as a closing agent in the sale, financing or refinancing of the real estate subject to such mortgage.

(d) Any mortgagee or assignee of a mortgagee who refuses or neglects to enter satisfaction of such mortgage within 20 days after demand has been made as provided in subsection (c) shall be liable in damages to the person for whom the demand was made in the sum of \$500, together with a reasonable attorney's fee for preparing and prosecuting the action. The plaintiff in such action may recover any additional damages that the evidence in the case warrants. Civil actions may be brought under this act before any court of competent jurisdiction, and attachments may be had as in other cases.

(e) The mortgagee or assignee of a mortgagee entering satisfaction or causing to be entered satisfaction of a mortgage under the provisions of subsection (a) shall furnish to the office of the register of deeds the full name and last known post office address of the mortgagor or the mortgagor's assignee. The register of deeds shall forward such information to the county clerk who shall make any necessary changes in address records for mailing tax statements.

History: L. 1971, ch. 189, § 1; L. 1980, ch. 163, § 1; L. 1989, ch. 165, § 1; L. 1994, ch. 250, § 1; L. 1995, ch. 173, § 2; L. 2001, ch. 28, § 1; March 29.

Kansas Bankers Association
Proposed Amendment to Vehicle Title Registration Laws

8-135. Transfer of ownership of vehicles; registration; fees and penalties; certificate of title, form, fee; assignment and reassignment; liens, statement of, release of, liability for failure to comply, notice of security interest, execution; purchase and sale of vehicle, requirements; written consent by lienholder; transfer-on-death; reaffirmation of sale; assignment of title form; electronic certificate of title; reassignment forms. (a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use any license plate thereon shall expire and thereafter there shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A. 8-172, and amendments thereto, and 8-1,147, and amendments thereto, it shall be unlawful for any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register another vehicle under the same number, upon application and payment of a fee of \$1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of \$1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of subsection (a) of K.S.A. 8-198, and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A. 2003 Supp. 59-3511, and amendments thereto, the new owner thereof, within 30 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the thirty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the thirty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of \$2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 30 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 8-198, and amendments thereto, and to any electronic certificate of title, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 2003 Supp. 8-135d, and amendments thereto, or with rules and regulations adopted pursuant to K.S.A. 2003 Supp. 8-135d, and amendments thereto.

KSA 8-135

The provisions of paragraphs (1) through (14) shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such vehicle.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert the mileage on the form filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer certification made by the seller, except that vehicles which are 10 model years or older and trucks with a gross vehicle weight of more than 16,000 pounds shall be exempt from the mileage acknowledgment requirement of the purchaser or assignee. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a nonhighway vehicle or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant. When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of \$3.

KSA 8-135

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be \$10 in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) **Except for a vehicle registered by a federally recognized Indian Tribe as provided in paragraph (6) of this section,** upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. The dealer or secured party, within 20 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of \$2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle described on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the Kansas lienholder. Each county treasurer shall charge the Kansas lienholder a \$1.50 service fee for processing and mailing a copy of the title application to the Kansas lienholder.

(6) A security interest in a vehicle registered by a federally recognized Indian Tribe shall be deemed valid under Kansas law if validly perfected under the applicable tribal law and the lien is noted on the face of the tribal certificate of title.

~~(7)~~ (6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The

KSA 8-135

agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are satisfied if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then present such assigned certificate of title to the division at the time of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of \$10. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security agreement on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of \$10 to the division. Upon receipt thereof, the division shall issue a new certificate of title showing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title. For failure to comply with such a demand the lienholder shall be liable to the holder of the title for \$100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

~~(8)~~ (7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of delivery, but within 30 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if (i) the seller mails to the purchaser by restricted mail the assigned certificate of title within 30 days, or (ii) if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to the division, or (iii) if the transferor is a dealer and has assigned a title pursuant to paragraph (9) of this subsection (c).

~~(9)~~ (8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

KSA 8-135

(10) ~~(9)~~ Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c)(1).

(11) ~~(10)~~ Motor vehicles may be held and titled in transfer-on-death form.

(12) ~~(11)~~ Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to paragraph (7) of subsection (c) and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

(13) ~~(12)~~ The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of \$10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(14) ~~(13)~~ Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's agent upon a form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with subsection (a) of K.S.A. 8-116a, and amendments thereto, has been completed.

(15) ~~(14)~~ In addition to the two forms for reassignment under paragraph (2) of subsection (c), a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under paragraph (2) of subsection (c) have already been used. The fee for a reassignment form shall be \$6.50. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.

History: L. 1929, ch. 81, § 13; L. 1937, ch. 72, § 5; L. 1938, ch. 12, § 1; L. 1941, ch. 93, § 1; L. 1943, ch. 79, § 2; L. 1955, ch. 47, § 1; L. 1959, ch. 46, § 7; L. 1961, ch. 47, § 1; L. 1963, ch. 48, § 1; L. 1965, ch. 60, § 1; L. 1968, ch. 411, § 2; L. 1970, ch. 46, § 1; L. 1971, ch. 18, § 1; L.

1972, ch. 20, § 1; L. 1974, ch. 35, § 4; L. 1975, ch. 30, § 4; L. 1975, ch. 31, § 1; L. 1975, ch. 32, § 1; L. 1977, ch. 31, § 1; L. 1978, ch. 32, § 1; L. 1979, ch. 36, § 1; L. 1980, ch. 31, § 1; L. 1984, ch. 31, § 1; L. 1985, ch. 43, § 6; L. 1987, ch. 42, § 1; L. 1989, ch. 36, § 1; L. 1989, ch. 37, § 1; L. 1990, ch. 36, § 1; L. 1991, ch. 33, § 14; L. 1992, ch. 63, § 1; L. 1993, ch. 176, § 2; L. 1995, ch. 88, § 1; L. 1996, ch. 260, § 1; L. 1997, ch. 56, § 1; L. 1997, ch. 138, § 6; L. 1998, ch. 140, § 8; L. 1999, ch. 114, § 1; L. 2000, ch. 73, § 3; L. 2002, ch. 134, § 2; L. 2002, ch. 134, § 3; L. 2003, ch. 30, § 1; July 1.