

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on February 14, 2006 in Room 234-N of the Capitol.

All members were present except:

Senator Jim Barone - Excused  
Senator Jim Barnett - Excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Ken Wilke, Office of Revisor of Statutes  
Bev Beam, Committee Secretary

Conferees appearing before the committee:

Jarrold Forbes, Kansas Ins. Dept.  
Doug Wareham, Kansas Bankers  
Matthew S. Goddard, Heartland Community  
Bankers Assn.  
Bill Henry, Kansas Credit Union Assn.

Others attending:

See attached list.

The Chair called the meeting to order and thanked everyone for coming.

Hearing on **(SB 442) - Concerning insurance; pertaining to allowing certain lienholders and mortgagees to be shown on the application for insurance.**

The Chair asked Melissa Calderwood for an overview.

Ms. Calderwood said **(SB 442)** would amend the current requirements for certain lienholders and mortgagees that are found in K.S.A. 4985. Specifically, the bill would provide that an applicant be allowed to identify the lienholder listed on the certificate of title on the motor vehicle or property being insured on application forms for collision or comprehensive coverage on their personal motor vehicles. The bill would also provide that an applicant be allowed to identify the mortgagee listed on the mortgage.

Jarrold Forbes, Kansas Insurance Department, was the first to testify. Mr. Forbes said the intent of this legislation is to reduce the occurrence of banks, credit unions and other lending institutions not having their name included on loss payee payments.

He said **(SB 442)** is a work of compromise among the lending institutions, the insurance industry and the Kansas Insurance Department. He said the Insurance Department believes the language provides a workable solution for the insurance industry while addressing the valid concerns of the lending institutions.

**(Attachment 1)**

The Chair called on Doug Wareham, Kansas Bankers' Association. Mr. Wareham said more than a year ago, KBA began conversations with the Kansas Insurance Department, as well as representatives of several prominent insurance firms, in response to a growing number of complaints from Kansas bankers regarding the issuance of insurance claim checks that did not include lienholders/mortgagees as joint payees. It was during those early discussions with the Kansas Insurance Department that we discovered the Department does not presently have the statutory authority to require the identification of lienholders and mortgagees when a customer applies for vehicle or homeowners insurance, he said.

Mr. Wareham said **(SB 442)** will ensure that customers seeking to obtain vehicle or property insurance are allowed to identify a lienholder or mortgagee on their insurance application. He said it is the hope of KBA

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 14, 2006 in Room 234-N of the Capitol.

that this statutory requirement will accomplish two objectives:

1. We believe (**SB 442**) will allow insurance customers to notify their insurance provider when the property they are insuring is subject to a lien or mortgage.

2. We are hopeful that (**SB 442**) will also cause some insurance companies to refrain from establishing arbitrary thresholds, some as high as \$5,000 per insurance claim, in which they knowingly choose to not include lienholders/mortgagees on insurance claims checks. (Attachment 2)

The Chair called on Matthew Goddard, Heartland Community Bankers Association, for his testimony. Mr. Goodard said Doug Wareham did a good job of explaining the importance of this bill. He said he would only add that if the borrower fails to repay the loan, the lender can seize the collateral to minimize any potential losses. If the collateral is somehow damaged, it is crucial that the insurance settlement payment be used to either bring the damaged property back to its full value or to pay off the loan. That is why a lienholder or mortgagee is listed as a loss payee. If the borrower received the claim payment in full but simply kept the money instead of using it to repair the damaged collateral, the lender would face a loss because the collateral would not cover the financial exposure of the loan. He said as losses would potentially mount for lenders, underwriting would tighten and the cost of borrowing would go up so loans would become harder to get and also become more expensive. (Attachment 3)

The Chair called on Bill Henry, Director of Governmental & Regulatory Affairs for the Kansas Credit Union Association. Mr. Henry said the issues that have been described to you are shared by credit union. We have exactly the same issues. He said this would not necessarily solve all the problems, but this is a first step. Risk is a part of lending, but sometimes when you have complete fraud you will always have this issue reoccur, he said. (Attachment 4)

**Final Action on (SB 322) - relating to the Kansas Automobile Injury Reparations Act; concerning certain penalties; providing for triple damages.**

The Chair called attention to final action on (**SB 322**). Discussion ensued. The Chair said there is a bill in the House (**HB 2690**) that also deals with penalties for not having a driver's license.

Ken Wilke said the main thrust of the amendment to (**HB 2690**) is to establish a procedure where if someone is involved in an accident and their license has been suspended or revoked and the court renders a judgment, they have basically 60 days to satisfy the judgment or the Secretary of Revenue can take their license. There are some provisions in there where the defendant enters into an agreement to pay in installments and they can drive, but if they miss a payment, down comes the hammer and there goes your license. This is patterned after some statutes in Nebraska.

Senator Brungardt moved to get rid of triple damages language in (SB 322). Senator Wilson seconded the motion. Motion passed.

Ken Wilke said for clarification does the bill read as follows:

Section one is excised from the bill, leaving in sections 2 and 3? On Page 5 what this would leave in is on your first conviction, you have a Class B misdemeanor and a Class B misdemeanor is current law. Then on a second conviction, you have a Class A misdemeanor and right now the Class A misdemeanor with a fine of not less than \$800 or more than \$2,500 is current law but the new provision is on the third or subsequent conviction you have a severity level nine non-person felony and that is where the grid you received comes in handy because that tells you what kind of sentencing you are looking at and that depends on how many other offenses the defendant has.

The Chair said at this time she would like to make sure the inherently dangerous provision in (**SB 322**) has been removed. Senator Brownlee so moved. Senator Wilson seconded. Motion passed.

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 14, 2006 in Room 234-N of the Capitol.

Now we have a bill that does not have the triple damages, does not have inherently dangerous felon, but does have the provisions, as stated by Mr. Wilke.

Senator Brungardt moved to pass the bill out favorably as amended. Senator Wilson seconded. Motion passed..

The meeting adjourned at 10:15 a.m.

**FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST**

DATE: February 14, 2006

NAME	REPRESENTING
Alex Kobyanetz	P.I. A.
Billy Sneed	State Farm
<del>Sam Jones</del>	KID
Natalie Haag	Security Benefit
Lee Wright	Farmers Ins.
<del>Daniel Wagner</del>	KAMA
Mandy Miller	Sen. Schmidt
Adam A. <del>Edline</del>	Sen. Brungardt
Andrew Couch	Federico Consulting
Doug Wareham	Kansas Bankers Assn.
Elizabeth Speer Smith	KMHA
Karin <del>Whitaker</del>	KATP
Pat Holden	Bank of America
Jon <del>Carles</del>	GBBA
David <del>Danson</del>	Ks <del>Tinsley Assoc</del>



# Kansas Insurance Department

**Sandy Praeger** COMMISSIONER OF INSURANCE

## COMMENTS ON

### SB 442—ALLOWING CERTAIN LIENHOLDERS AND MORTGAGEES TO BE SHOWN ON THE APPLICATION FOR INSURANCE

SENATE FINANCIAL INSTITUTIONS AND INSURANCE

February 14, 2006

Madame Chair and members of the committee:

Thank you for the opportunity to speak with you on behalf of the Kansas Insurance Department. SB 442 would amend K.S.A. 40-955 by allowing applicants for personal property and casualty insurance to identify lienholders and or mortgagees on their application.

The intent of this legislation is to reduce the occurrence of banks, credit unions and other lending institutions not having their name included on loss payee payments.

I am pleased to report that SB 442 is a work of compromise among the lending institutions, the insurance industry and our office. We believe the language provides a workable solution for the insurance industry while addressing the valid concerns of the lending institutions.

Thank you again for the opportunity to address the committee today and I would be happy to stand for any questions.

Jarrod Forbes  
Government Affairs Officer

*Senate FI & I Com.  
Attachment 1-1  
February 14, 2006*



Date: February 14, 2006  
To: Senate Financial Institutions & Insurance Committee  
From: Doug Wareham, Senior Vice President-Government Relations  
Re: Senate Bill 442

Madam Chairman and members of the Committee, I am Doug Wareham appearing on behalf of the Kansas Bankers Association (KBA). KBA's membership includes 353 Kansas banks, which operate more than 1,300 banking facilities in 440 towns and cities across the state. KBA appreciates the opportunity to appear in support of S.B. 442.

More than a year ago, KBA began conversations with the Kansas Insurance Department, as well as representatives of several prominent insurance firms, in response to a growing number of complaints from Kansas bankers regarding the issuance of insurance claim checks that did not include lienholders/mortgagees as joint payees. It was during those early discussions with the Kansas Insurance Department that we discovered the Department does not presently have the statutory authority to require the identification of lienholders and mortgagees when a customer applies for vehicle or homeowners insurance. I'm certain you are all familiar with the fact that lenders typically require vehicle and/or property insurance when making vehicle and home loans.

S.B. 442 will ensure that customers seeking to obtain vehicle or property insurance are allowed to identify a lienholder or mortgagee on their insurance application. It is our hope this statutory requirement will accomplish two objectives:

- First, we believe S.B. 442 will allow insurance customers to notify their insurance provider when the property they are insuring is subject to a lien or mortgage.
- Second, we are hopeful S.B. 442 will also cause some insurance companies to refrain from establishing arbitrary thresholds, some as high as \$5,000 per insurance claim, in which they knowingly choose to not include lienholders/mortgagees on insurance claims checks.

The first objective should be achieved as it is specifically required by S.B. 442. Time will tell if the second objective is achieved. If insurance companies continue to apply arbitrary thresholds and fail to recognize the lienholder/mortgagee on insurance claim checks, we will first encourage banks to seek recourse from the Kansas Insurance Department. If the Insurance Department, under their existing authority, is unable to adequately respond to these complaints, then we will likely return to this body for a solution. I am sharing this because I want it to be clear that while we have agreed to this legislation, we do so with the understanding that it will meet the objectives I've outlined above. Just as insurance companies expect to receive their monthly premiums for the auto and home insurance policies they sell, so do bankers and other lenders expect to be included on insurance claim checks when the damaged property is collateral used to secure a loan or mortgage.

Once again, thank you for the opportunity to appear in support of S.B. 442 and I would be happy to stand for questions.

*Senate FI&I Com  
Attachment 2-1  
February 14, 2006*

**1 Bureau Mutual Insurance Company**  
5400 University Avenue  
West Des Moines, IA 50266-5997



FARM BUREAU FINANCIAL SERVICES

**Bound**  
**Farm Bureau Member's Choice Personal Package Policy**  
**General Application**  
**Farm Bureau Mutual Insurance Company**  
**West Des Moines, Iowa**

**General Policy Information**

Effective Date: [REDACTED]      Expiration Date: [REDACTED]      Policy #: [REDACTED]  
State: KS  
Membership Account No: [REDACTED]  
Coverage(s) Written: Vehicle: Yes      Liability: Yes      Property: Yes      Umbrella: No  
Billing: [REDACTED]      Bill Insured: Yes      Bill Mortgagee: Yes  
Total Premium: [REDACTED]

**Agent Information**

Agent Name: [REDACTED]      Phone: [REDACTED]

**Applicant's (First Named Insured) Name/Mailing Address**

[REDACTED]      Relationship: Head of Household      DOB: [REDACTED]      Gender: Male  
[REDACTED]      Marital Status: Married      SSN: [REDACTED]  
[REDACTED]      Primary Occupation: [REDACTED]

**Additional Applicant's Name/Mailing Address**

[REDACTED]      Relationship: Spouse      DOB: [REDACTED]      Gender: Female  
[REDACTED]      Marital Status: Married      SSN: [REDACTED]  
[REDACTED]      Primary Occupation: [REDACTED]

**Household Members**

Head of Household: [REDACTED]  
[REDACTED]      Relationship: Head of Household      DOB: [REDACTED]      Gender: Male  
[REDACTED]      Marital Status: Married      SSN: [REDACTED]  
[REDACTED]      Primary Occupation: [REDACTED]  
[REDACTED]      Relationship: Spouse      DOB: [REDACTED]      Gender: Female  
[REDACTED]      Marital Status: Married      SSN: [REDACTED]  
[REDACTED]      Primary Occupation: [REDACTED]  
[REDACTED]      Relationship: Child      DOB: [REDACTED]      Gender: Male  
[REDACTED]      Marital Status: Single  
[REDACTED]      Relationship: Child      DOB: [REDACTED]      Gender: Male  
[REDACTED]      Marital Status: Single  
[REDACTED]      Relationship: Child      DOB: [REDACTED]      Gender: Female  
[REDACTED]      Marital Status: Single

**F. Hold Of** [REDACTED]

**Named Insured(s)**  
[REDACTED]

**Your Private Passenger Personal Vehicle**  
2001 GMC YUKON XL K1500

VIN: [REDACTED]

Symbol: [REDACTED]

**Place of Garaging**

State: KS County: [REDACTED]

Township: [REDACTED]

Territory: [REDACTED]

Inside City Limits: No

**Rated Driver**

Name: [REDACTED]

DOB: [REDACTED]

Gender: Female

Driver License/SSN: [REDACTED]

**Driver(s)**

Name: [REDACTED]

DOB: [REDACTED]

Gender: Male

Driver License/SSN: [REDACTED]

Vehicle Use: [REDACTED]

Vehicle Class: [REDACTED]

Merit Rating Factor: [REDACTED]

Insurance Score: [REDACTED]

**Vehicle Coverages**

**Coverages**

**Vehicle Liability Coverage**

Bodily Injury

Property Damage

**Auto No-Fault Coverage**

Medical Expenses

Loss of Monthly Earnings

Amount per Month

Period of Time

Funeral Expenses

**Damage To Your Vehicle Coverage**

Collision

Comprehensive

**Optional Coverages**

Auto And Motorcycle Towing And Labor

**Auto Uninsured And Underinsured Motor Vehicle Coverages**

Uninsured Motor Vehicle

Underinsured Motor Vehicle

**Limits**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Total Annual Vehicle Premium** [REDACTED]

**Loss Payee**

[REDACTED]



**P. Property Coverages for Dwelling**

**Coverages**

Fire Department Service Charge  
Property Loss Assessment

**Limits**

[Redacted]

**Dwelling/Household Personal Property Information**

Fire District: [Redacted]  
Road Miles To Fire Department: [Redacted]  
Construction Type: Frame/Stucco  
Occupancy Status: Owner occupied  
Solid Fuel Heat: No  
Number of Units Within Fire Walls of the Townhouse/Rowhouse: [Redacted]  
Replacement Cost: [Redacted]  
Class: 1

Fire Station: None Specified  
Protection Class: [Redacted]  
Year Built: [Redacted]  
Seasonal Secondary Usage: [Redacted]  
Number of Families: [Redacted]  
Actual Cash Value: [Redacted]

Water Source: None Specified

Condition of Dwelling: [Redacted]  
Roofing Type: Composition [Redacted]  
Year Last Totally Rewired: [Redacted]  
Year Furnace Installed: [Redacted]  
Is There Continuous Foundation: [Redacted]  
Protective Devices

Year Roof Installed: [Redacted]  
Approved Wiring: [Redacted]  
Year Last Totally RePlumbed: [Redacted]  
Is There Telephone Service: [Redacted]

# Roof Layers: [Redacted]

Fire or Smoke Alarms Ringing on Premises  
Deadbolt Locks on All Exterior Doors and Fire Extinguishers

**Dwelling Coverage**

Payment Basis: [Redacted]  
Covered Causes of Loss: Special

**Optional Coverages**

Water Backup of Sewers/Drains [Redacted]

**Household Personal Property**

Payment Basis: Replacement Cost  
Covered Causes of Loss: Special

**Special Limits of Insurance**

Money [Redacted]  
Valuable Records [Redacted]  
Watercraft [Redacted]  
Trailers [Redacted]  
Jewelry/Furs [Redacted]  
Plateware [Redacted]  
Firearms [Redacted]  
Business Property On Premises [Redacted]  
Business Property Off Premises [Redacted]  
Electronic Apparatus [Redacted]

**Optional Coverages**

Water Backup of Sewers/Drains [Redacted]  
Contents of Freezer or Refrigerated Unit [Redacted]

**Lienholder (First Mortgagee)**

[Redacted]

**Lienholder (Second Mortgagee)**

[Redacted]

EFFECTIVE

JAN 15 2004

SANDY PRAEGER  
Commissioner of Insurance

# PROPERTY SECTION

APPROVED & FILED

DEC 18 2003

SANDY PRAEGER  
Commissioner of Insurance

This section, combined with the General Section and property modules, provides the property coverages you selected, as identified in the Declarations.

For each type of property you own or rent, you need specific property insurance protection. Dwellings, buildings, and other property are identified in the Declarations. Personal property is insured on an unscheduled (blanket) basis, except for items you have chosen to schedule individually.

This section includes:

- Introduction
- Notification of Loss
- Payment for Loss
- Additional Exclusions
- Named Causes of Loss Index
- Special Causes of Loss Index
- Glossary - Property Section

## INTRODUCTION

Your property coverages are determined by combining the terms and provisions of the General Section and Property Section with one or more of the following property modules:

- Dwelling Module for the homeowner or "farm/ranch" owner, providing coverage for owner occupied dwellings, seasonal use dwellings, rental dwellings and certain related property.
- Mobile Home Module for the mobile home owner, providing coverage for mobile homes and certain related property.
- Household Personal Property Module for the homeowner, "farm/ranch" owner, mobile home owner, or renter, providing coverage for household personal property.
- Condo-Owners Property Module for the owner of a condominium or cooperative unit

providing coverage for both household personal property and certain condominium property.

- Garages, Outbuildings and Other Structures Module providing coverage for the owner of detached garages, outbuildings or other structures.
- Farm/Ranch Personal Property Module for farmers/ranchers, providing blanket coverage and/or scheduled coverage for personal property used in the "farm/ranch" operation.
- Scheduled Personal Property Module providing scheduled, additional coverage for owners of specific items of personal property such as expensive jewelry, sporting goods or fine art.

## COVERED CAUSES OF LOSS

The Scheduled Personal Property Module includes a separate Cause of Loss Index applicable only to that Module.

For the other modules (Dwelling, Mobile Home, Household Personal Property, Condo, Garages, Outbuildings and Other Structures, and Farm/Ranch Personal Property), the Declarations indicate whether property is insured for Named Causes of Loss or Special Causes of Loss.

### Named Causes of Loss

When the Declarations indicate coverage for Named Causes of Loss, coverage is provided for only the causes of loss identified by number in the Declarations. Refer to the Named Causes of Loss Index in this Section.

### Special Causes of Loss

When the Declarations indicate coverage for Special Causes of Loss, coverage is provided for accidental direct physical loss except as excluded.

*For example, if fire causes a loss to property covered for Special Causes of Loss, we cover it since fire is not excluded. If freezing causes a*

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loss, it is not covered under certain circumstances as explained under the exclusions relating to freezing.

Refer to the Special Causes of Loss Index in this section.

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## NOTIFICATION OF LOSS

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In case of an accident, "occurrence" or loss to which this insurance may apply, refer to the General Section for specific notification of loss instructions.

### Pollutant Cleanup and Removal

We must be notified immediately of any loss that may require cleanup and removal of pollutants. Pollutant Cleanup expenses payable under the Extra Coverages in the property modules will be made only if the loss or occurrence is reported to us within 180 days of when it occurs.

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## PAYMENT FOR LOSS

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The Payment For Loss provisions in the General Section apply and are expanded as follows with respect to coverage provided by this section.

### Vacant or Unoccupied Property

Except where specifically limited elsewhere in this policy, coverage on buildings will not be affected by being "vacant" or "unoccupied" unless the "vacancy" or "unoccupancy" lasts more than 180 consecutive days. In the event of loss to buildings "vacant" or "unoccupied" for more than 180 consecutive days we will pay 50% of the amount we would have paid if the building had not been "vacant" or "unoccupied."

Outbuildings used seasonally due to the normal practices of "Farming/Ranching" are not considered vacant for the purposes of the Vacant or Unoccupied Property Payment For Loss provision.

### Mortgagee

The word mortgagee includes contract for deed vendor.

If a mortgagee is named in the Declarations, any loss payable on property subject to the mortgage or contract will be paid to you and the mortgagee, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages or contracts.

If we deny your claim, the denial will not apply to a valid claim of the mortgagee if the mortgagee:

- Notifies us of any change in ownership, occupancy or substantial change in exposure of which the mortgagee is aware;
- Pays any premium due under this policy on demand if you have neglected to pay the premium; and
- Submits a Signed Sworn Statement in Proof of Loss within 60 days after receiving notice from us of your failure to pay the premium.

If this policy is canceled for any reason, the mortgagee will be notified in writing at least 10 days before the date cancellation takes effect.

If we pay the mortgagee for any loss and deny payment to you:

- We assume all the rights of the mortgagee granted under the mortgage or contract and are entitled to an assignment of the mortgage or contract to the extent of our payment; or
- At our option, we may pay the mortgagee the entire amount of the principal on the mortgage or contract plus any accrued interest. In this event we will receive a full assignment and transfer of the mortgage or contract and all securities held as collateral to the debt.

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This policy's Appraisal, Loss Payment and Legal Action Against Us provisions apply to mortgagees.

*For example, the ordinance or law exclusion does not apply where the policy provides that we will replace glass with safety glazing material as required by ordinance or law.*

### Loss Payee

If a loss payee is named in the Declarations, any loss payable on property in which the loss payee has a financial interest will be paid to you and the loss payee as interests appear. The loss payee shall have no independent right of recovery. The loss will be settled only with you.

### Ordinance or Law

There is no coverage for loss or expense "arising out of" the enforcement of any ordinance or law requiring or regulating the construction, repair or demolition of a building or other structure, unless specifically provided in this policy.

### Additional Insured

If an additional insured is named in the Declarations, any loss payable on property in which the additional insured has a financial interest will be paid to you and the additional insured as interests appear. The additional insured shall have no independent right of recovery. The loss will be settled only with you.

### Earth Movement

There is no coverage for loss "arising out of":

- Earthquake;
- Land shock waves or tremors before, during or after a volcanic eruption;
- Landslide;
- Mine subsidence;
- Mudflow; or
- Earth sinking, rising or shifting.

This exclusion applies regardless of whether human or animal forces or any act of nature caused the earth movement.

## ADDITIONAL EXCLUSIONS

These exclusions apply in addition to those in the General Section and applicable property modules.

If loss or damage due to fire, explosion or theft results, we will pay for that resulting loss or damage unless another exclusion applies.

These exclusions apply regardless of whether the excluded cause or event is a direct or indirect cause of loss.

### Water Damage

- There is no coverage for loss "arising out of" flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, even if driven by wind.
- There is no coverage for loss "arising out of" water originating from below the surface of the ground, including water which exerts pressure on, or seeps or leaks through, a building, sidewalk, driveway, foundation, swimming pool or other structure.
- There is no coverage for loss "arising out of" water or waterborne material that backs up through sewers or drains or overflows from a sump.

These exclusions apply regardless of whether any other cause or event contributes concurrently or in any sequence to the loss.

These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

If a provision elsewhere in your policy specifically states coverage is provided with respect to one of these exclusions, the exclusion does not apply with respect to that provision.

If loss or damage due to fire, explosion or theft results, we will pay for that resulting loss or damage unless another exclusion applies.

To: Senate Financial Institutions and Insurance Committee

From: Matthew Goddard  
Heartland Community Bankers Association

Date: February 14, 2006

Re: Senate Bill No. 442

The Heartland Community Bankers Association appreciates the opportunity to express our support for Senate Bill 442 with the Senate Committee on Financial Institutions and Insurance.

The bill requires that insurance applications for motor vehicles and real property allow the applicant to identify a lienholder or mortgagee for the vehicle or property. The creditor is what is known as a loss payee, someone with an insurable interest in the property to whom a claim is paid in the event of damage to the insured property. Although most insurers honor loss payees, some insurance companies doing business in Kansas do not. Some do not even accept the designation on their applications in the first place. This bill would rectify the latter situation.

It is important to our nation's credit system that creditors are fully recognized as loss payees. In any secured loan, the property subject to the loan is the collateral. If the borrower fails to repay the loan, the lender can seize the collateral to minimize any potential losses. If the collateral is somehow damaged, it is crucial that the insurance settlement payment be used to either bring the damaged property back to its full value or to pay off the loan. That is why a lienholder or mortgagee is listed as a loss payee. If the borrower received the claim payment in full but simply kept the money instead of using it to repair the damaged collateral, the lender would face a loss because the collateral would not cover the financial exposure of the loan. As losses would potentially mount for lenders, underwriting would tighten and the cost of borrowing would go up. So, loans would become harder to get and also become more expensive.

We respectfully request that the Senate Committee on Financial Institutions and Insurance recommend SB 442 favorable for passage.

Thank you.

*Senate FI & I Com  
Attachment 3-1  
February 14, 2006*



KANSAS CREDIT UNION ASSOCIATION

Testimony for the Senate Financial Institutions  
&  
Insurance Committee  
February 14, 2006

Madam Chairman, I am Bill Henry, Director of Governmental & Regulatory Affairs for the Kansas Credit Union Association. I appear today as a proponent of SB 442.

For some time credit unions-- like other financial institutions—have run into situations where motor vehicles for which we are lienholders have been damaged and checks for repair are sent to the insured who do not make the authorized repairs. The loss in value to the motor vehicle by the unrepaired damage can be extreme. In some cases where the vehicle is a total loss and a loan remains outstanding the insured utilizes the funds for some other purpose leaving the lienholder with no security for the loan.

In cases of real property damage we do not have as many difficulties as mortgagees. However, depending on the individual insurance company the same situation does occur.

We support SB 442 and the new language that is included on page three, lines 23-29, which we believe will be a good first step to protecting lienholders and mortgagees. The new language allows authority for the insurance department to deal with situations as have been previously described in the department's regulation of insurance companies operating in Kansas.

I would be happy to respond to any questions the committee may have.

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Bill Henry  
Director of Governmental &  
Regulatory Affairs  
Kansas Credit Union Association

*Senate FI & I Com.  
Attachment 4-1  
February 14, 2006*