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David L. Herndon, Bank Commissioner

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**Testimony to the Senate Committee on Financial Institutions and Insurance
on SB 44
February 7, 2023**

The Office of the State Bank Commissioner (OSBC) appreciates the committee's introduction of our bill, SB 44, and we thank the Chairman for holding a hearing on the bill. Today, the OSBC has in attendance General Counsel Brock Roehler, Assistant Deputy and Director of Examinations Jim Payne, Director of IT Matt Hodges, and IT Examination Manager Kylee Fine.

The OSBC is recognized nationwide as a leader in information technology (IT) supervision. Our agency has designated information security examiners that ensure financial institutions doing business with Kansas consumers have appropriate information security protocols to protect their highly confidential information. All financial institutions are required to comply with federal Information Security Standards which implement sections of the Gramm-Leach-Bliley Act and set forth standards for implementing safeguards designed to protect the security, confidentiality, and integrity of customer information.

SB 44 is a new act that provides our information technology examiners the ability to enforce the existing Federal Trade Commission's (FTC) Standards for Safeguarding Customer Information under state law. This bill will cover all entities under our jurisdiction outside of state chartered banks and federally regulated trust companies. State chartered banks and federally regulated trust companies are subject to Information Security Regulations enforced by their primary federal regulator, which include the FRB's 12 CFR Part 208 Appendix D-2, and the FDIC's 12 CFR Part 364 Appendix B. The FTC has not stated by statute, rule or regulation that a state agency may enforce its laws. Due to this ambiguity, we are asking for the ability to enforce the same provisions of the FTC safeguards rule under state law to ensure companies serving Kansas are taking appropriate steps to protect the private financial information of our citizens.

During our IT examinations, we have found financial institutions doing business with Kansas consumers were not fully compliant with the FTC safeguards rule. Currently, our agency works with the financial institutions to ensure they are aware of the applicable federal laws and include recommendations to improve their security posture in a written report of examination. In most cases, companies voluntarily resolve the noted concerns, as they recognize the risk to both their customers and their reputation, should a cybersecurity incident occur. It is our hope that financial institutions continue to voluntarily comply with the safeguards rules, however we are asking for this bill to be passed for those situations where they do not comply.

The OSBC spoke with several industry stakeholders in drafting the bill, and no opposition was noted. The OSBC would be able to use existing employees to carry out the requirements of this bill and would have a neutral fiscal impact. No additional regulatory burden would be placed on financial institutions, as they should already be following the federal law and this act would not include any companies already exempt from the federal law.

We appreciate the committee's time today and would be happy to stand for questions at the appropriate time.

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