



**KANSAS BAR
ASSOCIATION**

TO: The Honorable Larry Powell, Chair
And Members of the Senate Natural Resources Committee

FROM: Kansas Bar Association
Represented by Joseph Molina

RE: SB 425 – Authorizing the board of county commissioners of any county to regulate conservative easements of property within the county.

DATE: February 18, 2016

Good morning Chairman Powell and Members of the Senate Natural Resources Committee. I am Joseph Molina and on behalf of the Kansas Bar Association I provide this written testimony in OPPOSITION to SB 425 - Authorizing the board of county commissioners of any county to regulate conservative easements of property within the county.

The Kansas Bar Association believes that conservative easements provide a valuable tool for property owners for the preservation of their land while also providing great benefits to the public generally. Landowners with rich and rare wildlife habitat can protect their land against future development that could negatively impact this habitat, while simultaneously acting to preserve water quality, farm and ranch land use, scenic views, outdoor recreation, educational opportunities, and historic features and sites. Fundamentally, conservation easements preserve agricultural lands, from family farms to ranch properties, both of which are integral to our state economy. The economic benefits of these agricultural uses typically generate a great deal more in local revenue than they require in community services.

Conservation easements also provide a valuable tax and estate planning tool for individuals. The grant of an easement can make a huge difference in a landowner's ability to pass along to the next generation of family the real property that has been in that family for a long period of time. The grant of an easement can greatly reduce the impact of estate taxes that might otherwise apply to the transfer of large tracts of valuable land to the owner's heirs. The easement also provides landowners with the benefit of charitable deductions to offset income with the value of the easement.

All of these benefits can be realized by the grant of an easement without any fundamental change the nature of the property. Easements are typically individually tailored to the specific landowner's situation and most, if not all, current agricultural

uses continue without any interruption. Not every tract of land will qualify for conservation easements. Applicable regulations are somewhat restrictive as to the types and purposes to be promoted by easements. Accordingly, the use of easements is commonly applied only to those properties that best suited. Adding an additional layer of restrictions such as those created by SB 425 makes little sense. Moreover, SB 425 would interfere with private landowners' basic legal rights of ownership and have a chilling effect on private property rights. SB 425 puts a governmental body directly in the path of a property owner's rightful use of his land. Historically, our state has always promoted landowners' free right of use and enjoyment of their property. SB 425 is in direct conflict with this principle.

It is for these reasons that the KBA opposes SB 425.

On behalf of the Kansas Bar Association, I thank you for your time and attention.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals and has more than 7,200 members, including lawyers, judges, law students, and paralegals. www.ksbar.org