

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:

Jarrod 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.

Jarrod 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 that this statutory requirement will accomplish two objectives:

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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.

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.

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

The meeting adjourned at 10:15 a.m.