

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Ray Cox at 3:30 P.M. on March 14, 2005 in Room 527-S of the Capitol.

All members were present except:

Nile Dillmore- excused
Oletha Faust-Goudeau- excused
Bob Grant- excused
Ed O'Malley- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Patti Magathan, Committee Secretary

Conferees appearing before the committee:

Kevin Glendening, Office of the State Bank Commissioner
Melissa Jinks, Kansas Association of Mortgage Brokers

Others attending:

See attached list.

Chairman Cox opened the floor to hear **SB 196 - Kansas mortgage business act amendments.**

Testifying as a proponent was **Kevin Glendening**, Office of the State Bank Commissioner, who told the committee that this act contains several amendments to the Kansas Mortgage Business Act. He believes that these amendments will benefit both mortgage lenders and brokers, as well as consumers, by further helping to deter unlawful or deceptive practices and those less scrupulous operators which exist in the marketplace. These amendments were derived in cooperation with and by the support of the Kansas Association of Mortgage Brokers. These amendments parallel those previously considered and passed by the committee (**HB 2145**) which applied to consumer loans and UCCC. (**Attachment 1**)

Melissa Jinks, Kansas Association of Mortgage Brokers, also testified as a proponent, saying that they support **SB 196**. The Association of Mortgage Brokers believes that the overall changes in this bill will continue to help strengthen the confidence of any consumer that deals with a Mortgage Broker for their financial needs. (**Attachment 2**)

Representative Cox closed the hearings on **SB 196**.

Meeting was adjourned at 3:50 P.M. Next meeting will be March 16, 2005.

FINANCIAL INSTITUTIONS COMMITTEE GUEST LIST

DATE: 3-14-05

| NAME | REPRESENTING |
|-----------------------------|--------------|
| David Damon | Intern |
| Dag Wareham | KBIT |
| DENNIS ROCK | PSWS |
| Sonya Allen | OSBC |
| Kevin Glendening | OSBC |
| Dave Turdy | KAMB |
| Melissa Jirke | KAMB |
| Kevin Glendening | OSBC |
| Randy Anderson | KAMB |
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KANSAS

OFFICE OF THE STATE BANK COMMISSIONER
CLARENCE W. NORRIS, Bank Commissioner

KATHLEEN SEBELIUS, GOVERNOR

House Committee on Financial Institutions

March 14, 2005

Re: SB 196

Chairman and members of the committee:

Senate Bill 196 contains several proposed amendments to the Kansas Mortgage Business Act. The Mortgage Business Act, in essence, governs licensing and business activities of lenders, brokers, and servicers in the residential real estate mortgage area. We believe these proposed amendments will benefit both mortgage lenders and brokers, as well as consumers, by further helping to deter unlawful or deceptive practices and those less scrupulous operators which exist in the marketplace. These amendments were derived in cooperation with and support of the Kansas Association of Mortgage Brokers whose members are involved in both lending and brokering activities. I have outlined the primary amendments below with reference to their location in the Bill.

Page 1, line 28 - This proposed change would raise the present possible criminal penalties from a misdemeanor to a felony. Our hope would be that a potential felony would both serve as a stronger deterrent and perhaps raise the interest level of a county or district attorney to pursue charges in some situations. The decision whether or not to seek any criminal charge would of course rest with the county or district attorney.

Page 4, line 7 - Would allow the agency to receive fingerprints for the purpose of determining the identity and criminal history of an applicant or licensee. The law presently requires us to make a determination of the character and fitness of an applicant for license or registration. In addition, a criminal conviction may be grounds for denial or revocation of a license. While we presently conduct criminal background checks with the KBI, those records are limited to only in-state convictions. The KBI requires fingerprints in order to access any criminal records from other states that may be contained in the central database. Since we license and supervise entities across the country, we believe it would be prudent to verify whether or not criminal activity has occurred in another state. We would also note for the committee that the instance of individuals with serious criminal records attempting to obtain a license from our agency appears to be increasing.

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Attachment 1

SB 196
Page 2

Page 4, line 15 - This language is taken from the Uniform Consumer Credit Code and would allow us to 1) provide additional assistance, if requested, to a county or district attorney who may be prosecuting a violation of the Mortgage Business Act; and, 2) subpoena records, etc. in connection with an examination or investigation of violations.

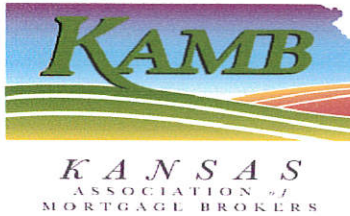
Page 6, line 35 - Adds a provision within the recordkeeping requirements prohibiting destruction or concealment of a record with the intent to impede an investigation.

Page 7, line 7 - Would raise the potential fine for violations from \$5,000 to \$10,000 for the unlawful act or practice; add an additional penalty for violations against an elderly or disabled person; add the ability for the Commissioner to issue an order requiring restitution to a consumer as part of an administrative action; and, permit barring a person from applying for a license.

Thank you for your consideration of these amendments.

Respectfully,

Kevin Glendening
Deputy Commissioner
Kansas Office of the State Bank Commissioner



**House Financial Institutions Committee
Testimony of the Kansas Association of Mortgage Brokers
Regarding SB 196: KS Mortgage Business Act Penalties
Presented by Melissa Jinks
Secretary, Kansas Association of Mortgage Brokers
Monday, March 14, 2005**

Committee Chair and Members:

I am here representing members of the Kansas Association of Mortgage Brokers, and to support Mr. Glendening, and his staff, in the introduction of changes to Senate Bill 196. We, as an Association, believe that the overall changes in this bill will continue to help strengthen the confidence of any consumer that deals with a Mortgage Broker for their financial needs.

Additions to Section 3., (11), (12), and (13), (b), (c), and (d) on pages 3 and 4. We are in hope that this change will encourage all Mortgage Brokers to be more thorough in the manner in which they hire any individual that they employ that comes in contact with financial information of the clients they provide services to. The owners and/or principals themselves should also not have any criminal activities in their past history that would make a consumer think twice before getting involved with that individual or their company. The other additions in this section will certainly help the banking commissioners office in their method of prosecution and the ability to facilitate local authorities in the State of Kansas or any other State as they deem necessary in the examination, investigation or prosecution of anyone they feel has committed any violations to this act.

Additions to Section 4., (a) (3) and (b) (1) (C) on page 5. These changes will allow the commissioner to be the one to determine the losses or damages incurred by any borrower or consumer that may also be covered under the surety bond issued to secure an applicant's or licensee's faithful performance of all duties and obligations under this act.

Additions to Section 5., (c) (1) and (2) on page 6. Adding this into the act hopefully will discourage any destroying or concealing of information in a consumer file that would impede in any way any investigation by the commissioner or the commissioner's designee of a consumer loan file.

(2)

Changes and additions to Section 6., (a) (2), (3), (4), (5) and (6) on page 6. We concur that the increase in fines and the order to pay restitution for any loss arising from a violation of any provisions of this act will help to discourage such violations to the consumer.

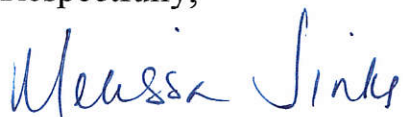
We feel that not allowing for criminal background checks and fingerprinting means that Kansas business people, (people that you represent and who vote for you), are scrutinized to a greater extent than an out of state company doing business in the State of Kansas is, and that just does not make any sense to us. Our Association has members that are governed by the Mortgage Business Act and those that are "Supervised lenders" that are under the UCCC laws. We feel these changes that are being introduced need to be mirrored on both sides to give it the most effect for the consumers that, of course, are also your constituents.

We, as an Association, encourage any changes that can be made to the Kansas Mortgage Business Act that would continue to legitimize our business as we strive to provide the majority of homeowner's access to their dream of owning a home. We discourage those that only want to get into this business to make a "quick buck" and then be on their way to their next business venture. The majority of us, as Mortgage Brokers, would prefer to stay in our industry for the long haul and continue to be amazed at the various options that we are able to provide to our customers in realizing their goal of homeownership.

Please keep in mind that in recent years we have had a substantial increase in identity theft against individuals and anything that can be done to help prevent that from happening is a plus to the consumer. Also, reports from the Federal Bureau of Investigation, state that "mortgage fraud" is one of the fastest growing white-collar crimes across the nation.

To reiterate again, we as an association and as consumer advocates, encourage you to look at each portion of changes and additions to this bill, from the consumer's standpoint, your constituents, and accept this bill in its current form.

Respectfully,



Melissa Jinks
Secretary, Kansas Association of Mortgage Brokers
South Central Chapter Legislative Chair