

*CORRECTED
SESSION OF 2006*

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2735

As Amended by House Committee on
Financial Institutions

Brief*

HB 2735, as amended, would amend the general definitions provision of the Kansas Uniform Consumer Credit Code to expand the definition for the term, "Appraised Value" and also would amend real estate law regarding disclosure of a loan amount to an appraiser or other person determining appraised value. In addition to the two provisions in the current statutory definition in the Code, "Appraised Value" would mean the estimated market value as determined through an automated valuation model acceptable to the Administrator, in the case of a nonpurchase money real estate transaction. The bill also defines an automated valuation model as an automated system that is used to derive a property value through the use of publicly available property records and various analytic methodologies such as comparable sales prices, home characteristics and historical home price appreciations. The models would be required to be validated by an independent credit rating agency. The model provider would not be permitted to accept a property valuation assignment when the assignment itself is contingent upon the model provider reporting a predetermined property valuation or when the fee to be paid to the provider is contingent upon the property valuation reached or upon the consequences from the property evaluation assignment.

In addition, the bill would prohibit a lender, as defined in KSA 58-2337, or any person acting on behalf of a lender from disclosing to an appraiser or other person engaged to determine the appraised value of real estate, the amount of a proposed real estate loan or the preferred or required value of any real estate intended to secure such loan.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

The bill was requested by HSBC Group. Proponents of the bill highlighted the alternative valuation method as a tool that could be used for refinancing or for second mortgages, and its advantages, including its ability to speed up transactions, to save borrowers a significant amount of money, and to help safeguard against certain types of fraud. The bill was supported by the Kansas Association of Financial Services and the Kansas Association of Mortgage Brokers.

Three Kansas appraisers appeared in opposition to the bill. Concerns cited included valuation models would not reduce the cost to borrowers, and because of the inaccuracy of public model products, increase the risk of appraisal inflation and create problems for unsuspecting borrowers.

The House Committee on Financial Institutions amended the bill to add a loan amount disclosure prohibition to real estate law and to further define an automated valuation model, validation of the models, and requirements for valuation model providers.

Current law allows either the value in the most recent records of the tax assessor of the county in which the real estate is located or the fair market value, as reflected in a written appraisal performed by a Kansas licensed or certified appraiser within the last twelve months.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates that passage of the bill would have no effect on the fiscal operations of either the Kansas Real Estate Commission or the Office of the State Bank Commissioner. The Kansas Real Estate Appraisal Board indicates that it does not have enough information to determine the effect this bill would have on real estate appraisers.