

## HOUSE BILL No. 2258

By Committee on Financial Institutions

2-6

1 AN ACT concerning the Kansas mortgage business act, definitions;  
2 amending K.S.A. 2014 Supp. 9-2201 and repealing the existing section.

3  
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2014 Supp. 9-2201 is hereby amended to read as  
6 follows: 9-2201. As used in this act:

7 (a) "Bona fide office" means an applicant's or licensee's principal  
8 place of business ~~which meets all of the following requirements~~ *with an*  
9 *office that:*

- 10 (1) ~~The office~~ Is located in this state;  
11 (2) ~~the office~~ is not located in a personal residence;  
12 (3) ~~the office~~ has regular hours of operation;  
13 (4) ~~the office~~ is accessible to the public;  
14 (5) ~~the office~~ is leased or owned by the licensee and serves as an  
15 office for the transaction of the licensee's mortgage business;  
16 (6) ~~the office~~ is separate from any office of another registrant; and  
17 (7) *is accessible to* all of the licensee's books, records and documents  
18 *are accessible through that office.*

19 (b) "Branch office" means a place of business, other than a principal  
20 place of business, where mortgage business is conducted; and which is  
21 licensed as required by this act.

22 (c) "Commissioner" means the ~~Kansas~~ state bank commissioner.

23 (d) "License" means a license issued by the commissioner to engage  
24 in mortgage business as a mortgage company.

25 (e) "Licensee" means a person who is licensed by the commissioner  
26 as a mortgage company.

27 (f) "Loan originator" means an individual:

28 (1) Who Engages in mortgage business on behalf of a single  
29 mortgage company;

30 (2) whose conduct of mortgage business is the responsibility of the  
31 licensee;

32 (3) who takes a residential mortgage loan application or offers or  
33 negotiates terms of a residential mortgage loan for compensation or gain or  
34 in the expectation of compensation or gain; and

35 (4) whose job responsibilities include contact with borrowers during  
36 the loan origination process, which can include soliciting, negotiating,

1 acquiring, arranging or making mortgage loans for others, obtaining  
2 personal or financial information, assisting with the preparation of loan  
3 applications or other documents, quoting loan rates or terms; or providing  
4 required disclosures. It does not include any individual engaged solely as a  
5 loan processor or underwriter.

6 (g) "Loan processor or underwriter" means an individual who  
7 performs clerical or support duties as an employee at the direction and  
8 subject to the supervision and instruction of a person registered or exempt  
9 from registration under this act.

10 (1) For purposes of this subsection, the term "clerical or support  
11 duties" may include subsequent to the receipt of an application:

12 (A) The receipt, collection, distribution and analysis of information  
13 common for the processing or underwriting of a residential mortgage loan;  
14 and

15 (B) communicating with a consumer to obtain the information  
16 necessary for the processing or underwriting of a loan, to the extent that  
17 such communication does not include offering or negotiating loan rates or  
18 terms or counseling consumers about residential mortgage loan rates or  
19 terms.

20 (2) An individual engaging solely in loan processor or underwriter  
21 activities shall not represent to the public, through advertising or other  
22 means of communicating or providing information including the use of  
23 business cards, stationery, brochures, signs, rate lists or other promotional  
24 items, that such individual can or will perform any of the activities of a  
25 loan originator.

26 (h) "Nationwide mortgage licensing system and registry" means a  
27 mortgage licensing system developed and maintained by the conference of  
28 state bank supervisors and the American association of residential  
29 mortgage regulators for the licensing and registration of licensed mortgage  
30 loan originators.

31 (i) "Mortgage business" means engaging in, or holding out to the  
32 public as willing to engage in, for compensation or gain, or in the  
33 expectation of compensation or gain, directly or indirectly, the business of  
34 making, originating, servicing, soliciting, placing, negotiating, acquiring,  
35 selling; or arranging for others; or offering to solicit, place, negotiate,  
36 acquire, sell or arrange for others, mortgage loans in the primary market.

37 (j) "Mortgage company" means a person engaged in mortgage  
38 business from a principal place of business or branch office, which has  
39 been licensed as required by this act.

40 (k) "Mortgage loan" means a loan or agreement to extend credit made  
41 to a natural person which is secured by a first or second mortgage, deed of  
42 trust, contract for deed or other similar instrument or document  
43 representing a security interest or lien, *except as provided for in K.S.A. 60-*

1 *1101 through 60-1110, and amendments thereto*, upon any lot intended for  
2 residential purposes or a one-to-four family dwelling as defined in ~~section~~  
3 ~~103(v) of the truth in lending act~~, 15 U.S.C. § 1602~~(v)~~(w), located in this  
4 state, occupied or intended to be occupied for residential purposes by the  
5 owner, including the renewal or refinancing of any such loan.

6 (l) "Person" means any individual, sole proprietorship, corporation,  
7 partnership, trust, association, joint venture, pool syndicate,  
8 unincorporated organization or other form of entity, however organized.

9 (m) "Primary market" means the market wherein mortgage loans are  
10 originated between a lender and a borrower, whether or not through a  
11 mortgage broker or other means.

12 (n) "Principal place of business" means a licensed place of business  
13 where mortgage business is conducted, which has been designated by a  
14 licensee as the primary headquarters from which all mortgage business and  
15 administrative activities are managed and directed.

16 (o) "Promotional items" means pens, pencils, hats and other such  
17 novelty items.

18 (p) "Registrant" means any individual who holds a valid registration  
19 to conduct mortgage business in this state as a loan originator.

20 (q) "Unique identifier" means a number or other identifier assigned  
21 by protocols established by the nationwide mortgage licensing system and  
22 registry.

23 Sec. 2. K.S.A. 2014 Supp. 9-2201 is hereby repealed.

24 Sec. 3. This act shall take effect and be in force from and after its  
25 publication in the statute book.