

SESSION OF 2022

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2568

As Recommended by House Committee on
Financial Institutions and Rural Development

Brief*

HB 2568 would update the Kansas Mortgage Business Act (KMBA) to allow certain mortgage business to be conducted remotely and make changes to definitions and branch licensure and other registration requirements for mortgage companies.

Definitions (Section 1)

The bill would amend the definitions section of the KMBA, by removing the definitions of “application” and “bona fide office,” adding a definition for “mortgage loan application,” and changing the definitions of “branch office,” “loan processor or underwriter,” “mortgage company,” and “principal place of business.”

The bill would also define “remote location” to mean a location other than the principal place of business or a branch office where a licensed mortgage company’s employee or independent contractor is authorized by such company to engage in mortgage business. A remote location would not be considered a branch office.

***Conducting Mortgage Business at Remote Locations
(Section 2)***

The bill would allow mortgage business to be conducted at a remote location if the following conditions are met:

*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>

- The licensed mortgage company's employees or independent contractors do not meet with the public at a personal residence;
- No physical business records are maintained at the remote location;
- The licensed mortgage company has written policies and procedures for working at a remote location, and the company supervises and enforces the policies and procedures;
- The licensed mortgage company maintains the computer system and customer information in accordance with the company's information technology security plan and all state and federal laws;
- Any device used to engage in mortgage business has appropriate security, encryption, and device management controls to ensure the security and confidentiality of customer information as required by rules and regulations adopted by the State Bank Commissioner;
- The licensed mortgage company's employees or independent contractors take reasonable precautions to protect confidential information in accordance with state and federal laws; and
- The licensed mortgage company annually reviews and certifies that the employees or independent contractors engaged in mortgage business at remote locations meet the requirements of this section of the bill. Upon request, a licensee would be required to provide written documentation of the licensee's review to the State Bank Commissioner.

Technical Amendments (Sections 3, 5, and 7)

The bill would also make technical amendments to conform with current statutory language and to reflect the allowance of conducting mortgage business at a remote location.

License and Registration Requirements (Section 4)

The bill would replace the current requirements for licenses and renewal applications. The bill would set the expiration date for licenses and registration on December 31 of each year, and a license or registration would be renewed by filing a complete renewal application and non-refundable renewal fee with the State Bank Commissioner by December 1 of each year.

The bill would authorize the State Bank Commissioner to assess a late fee on any renewal application received after December 1 of each year and on any incomplete renewal application as of December 1 of each year. The State Bank Commissioner would be able to designate late fees for consumer education to be spent for that purpose as directed by the State Bank Commissioner.

The bill would allow for an expired license or registration to be reinstated through the last day of February of each year by filing a reinstatement application and paying the application and late fees. Upon reinstatement, the license and registration would be considered in full force and effect.

Surety Bond Requirements (Section 6)

The bill would increase the surety bond amount from not less than \$50,000 to not less than \$100,000 that each applicant or licensee is required to file with the State Bank Commissioner. In addition, the bill would remove duplicative language on the surety bond amount and remove a

requirement that each applicant or licensee would be required to submit a written statement by an independent certified public accountant on a financial statement. The bill would also reword the requirements of applicants or licensees to submit evidence of solvency and require the applicants and licensees to maintain a positive net worth.

Background

The bill was introduced by the House Committee on Financial Institutions and Rural Development at the request of the Office of the State Bank Commissioner (OSBC).

House Committee on Financial Institutions and Rural Development

In the House Committee hearing, representatives of the OSBC, Mortgage Bankers Association, Rocket Mortgage, and Zillow provided **proponent** testimony, stating the COVID-19 pandemic led to emergency rules to allow mortgage company employees to work from home. Many mortgage companies and their employees have found value in working from home, and the regulatory agency and the mortgage industry have agreed to put those emergency rules in statute, along with making changes to reflect the current mortgage industry. The OSBC representative indicated the KMBA amendments also clarify licensing renewal periods, fees associated with reinstatement, surety bonding, and financial statement requirements commonly used when participating in the Nationwide Multistate Licensing System (NMLS).

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, states the OSBC indicates that in calendar year 2021, there were 1,341 branch licensees that

have a renewal fee of \$300. Because the bill would eliminate branch fees, the State Bank Commissioner would have a reduction of \$402,300 annually to its Bank Commissioner Fee Fund. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

[*Note:* A representative of the OSBC noted during their testimony that the fiscal note reflects the statutory fiscal effect, but does not take into consideration the regulatory fiscal effect, which would result in a small increase in revenue for the agency.]

Kansas Mortgage Business Act; mortgage business; financial institutions