

SENATE BILL No. 44

By Committee on Financial Institutions and Insurance

1-18

1 AN ACT concerning financial institutions; relating to cybersecurity;
2 enacting the Kansas financial institutions information security act;
3 requiring certain covered entities to protect customer information;
4 authorizing the state bank commissioner to adopt rules and regulations;
5 providing penalties for violations of such act.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. (a) Sections 1 through 4, and amendments thereto, shall be
9 known and may be cited as the Kansas financial institutions information
10 security act.

11 (b) The purpose of the Kansas financial institutions information
12 security act is to establish information security standards for any covered
13 entity consistent with 16 C.F.R. § 314, as in effect on July 1, 2023.

14 (c) The Kansas financial institutions information security act applies
15 to the handling of customer information by the following covered entities:

16 (1) Credit services organizations, as defined in K.S.A. 50-1117, and
17 amendments thereto; (2) mortgage companies, as defined in K.S.A. 9-
18 2201, and amendments thereto; (3) ~~financial institutions engaging in~~
19 ~~consumer credit transactions~~ **supervised lenders**, as defined in K.S.A. 16a-
20 1-301, and amendments thereto; (4) financial institutions engaging in
21 money transmission, as defined in K.S.A. 9-508, and amendments thereto;
22 (5) trust companies, as defined in K.S.A. 9-701, and amendments thereto;
23 and (6) technology-enabled fiduciary financial institutions, as defined in
24 K.S.A. 9-2301, and amendments thereto.

25 (d) The commissioner may adopt all rules and regulations necessary
26 to govern and administer the provisions of the Kansas financial institutions
27 information security act.

28 (e) The Kansas financial institutions information security act shall be
29 a part of and supplemental to chapter 9 of the Kansas Statutes Annotated,
30 and amendments thereto.

31 Sec. 2. As used in the Kansas financial institutions information
32 security act:

33 (a) "Commissioner" means the state bank commissioner or the
34 commissioner's designee.

35 (b) "Covered entity" means each person, applicant, registrant or
36 licensee subject to regulation by the office of the state bank commissioner

1 that is not directly regulated by a federal banking agency.

2 (c) "Customer information" means any record containing nonpublic
3 personal information about a customer of a covered entity, whether in
4 paper, electronic or other form, that is handled or maintained by or on
5 behalf of the covered entity or its affiliates.

6 Sec. 3. A covered entity shall:

7 (a) Set forth standards for developing, implementing and maintaining
8 reasonable safeguards to protect the security, confidentiality and integrity
9 of customer information pursuant to 16 C.F.R. § 314, as in effect on July 1,
10 2023;

11 (b) develop and organize its information security program into one or
12 more readily accessible parts; and

13 (c) maintain its information security program as part of the covered
14 entity's books and records in accordance with the record retention
15 requirements of such covered entity.

16 Sec. 4. (a) The Kansas financial institutions information security act
17 shall be implemented, administered and enforced by the commissioner.

18 (b) (1) The commissioner may conduct:

19 (A) Routine examinations of the operations of a covered entity; or

20 (B) investigations of the operations of the covered entity if the
21 commissioner has reason to believe that the covered entity has been
22 engaged or is engaging in any conduct in violation of the Kansas financial
23 institutions information security act.

24 (2) In furtherance of an investigation or examination, or while
25 enforcing the provisions of the Kansas financial institutions information
26 security act, the commissioner may take such action that is necessary and
27 appropriate, including, but not limited to, the following:

28 (A) Issue subpoenas and seek enforcement thereof in a court of
29 competent jurisdiction;

30 (B) assess fines or civil penalties on a covered entity not to exceed
31 \$5,000 per violation and assess costs of the investigation, examination or
32 enforcement action;

33 (C) censure a covered entity if such covered entity is registered or
34 licensed;

35 (D) enter into a memorandum of understanding or consent order with
36 a covered entity;

37 (E) issue a summary order to a covered entity;

38 (F) revoke, suspend or refuse to renew the registration or licensure of
39 a covered entity;

40 (G) order a covered entity to cease and desist from engaging in any
41 conduct in violation of the Kansas financial institutions information
42 security act or file for an injunction to prohibit the covered entity from
43 continuing such conduct; or

1 (H) issue emergency orders if necessary to prevent harm to
2 consumers.

3 (c) Any enforcement action required or requested under the Kansas
4 financial institutions information security act shall be conducted in
5 accordance with the Kansas administrative procedure act, K.S.A. 77-501 et
6 seq., and amendments thereto.

7 (d) Any enforcement action required or requested under the Kansas
8 financial institutions information security act shall be subject to review in
9 accordance with the Kansas judicial review act, K.S.A. 77-601 et seq., and
10 amendments thereto.

11 Sec. 5. This act shall take effect and be in force from and after its
12 publication in the statute book.