AN ACT concerning financial institutions; relating to mortgage business; pertaining to the Kansas mortgage business act; amending K.S.A. 9-2204 and K.S.A. 2016 Supp. 9-2203, 9-2206, 9-2211 and 9-2216a and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:
Section 1. K.S.A. 2016 Supp. 9-2203 is hereby amended to read as follows: 9-2203. (a) Mortgage business shall only be conducted in this state at or from a mortgage company licensed by the commissioner as required by this act. A licensee shall be responsible for all mortgage business conducted on their behalf by loan originators or other employees. (b) Mortgage business involving loan origination shall only be conducted in this state by an individual who has first been registered with the commissioner as a loan originator as required by this act and maintains a valid unique identifier issued by the nationwide mortgage licensing system and registry, if operational at the time of registration. (c) Loan origination shall only be conducted at or from a mortgage company and a registrant shall only engage in mortgage business on behalf of one mortgage company. (d) Nothing under this act shall require a licensee to obtain any other license under any other act for the sole purpose of conducting non-depository mortgage business. (e) Any person who willfully or knowingly violates any of the provisions of this act, any rule and regulation adopted or order issued under this act commits a severity level 7 nonperson felony. A second or subsequent conviction of this act, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment. (f) No prosecution for any crime under this act may be commenced more than five years after the alleged violation. A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution, except that no prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay. (g) Nothing in this act limits the power of the state to punish any person for any conduct which constitutes a crime by statute.
Sec. 2. K.S.A. 9-2204 is hereby amended to read as follows: 9-2204.

(a) Any person required to be licensed as a mortgage company pursuant to this act shall submit to the commissioner a separate application for the principal place of business and each branch office on forms prescribed and provided by the commissioner. The application or applications shall contain information the commissioner deems necessary to adequately identify:

1. The nature of the mortgage business to be conducted, principal place of business address and each branch office address;
2. The identity, character and qualifications of an individual applicant;
3. The identity, character and qualifications of the loan originators, owners, officers, directors, members, partners and employees of the applicant;
4. The name under which the applicant intends to conduct business; and
5. Other information the commissioner requires to evaluate the financial responsibility and condition, character, qualifications and fitness of the applicant and compliance with the provisions of this act.

(b) Any individual required to register as a loan originator pursuant to this act shall submit to the commissioner an application for registration on forms prescribed and provided by the commissioner. The application shall contain information the commissioner deems necessary to adequately identify the location where the individual engages in mortgage business activities, the licensee for whom the registrant will conduct mortgage business and other information the commissioner requires to evaluate the condition, character, qualifications, and fitness of the applicant and compliance with the provisions of this act.

(c) Each application shall be accompanied by a nonrefundable fee of not less than $50, which may be increased by rules and regulations pursuant to K.S.A. 9-2209, and amendments thereto.

(d) The commissioner shall consider an application for a license or registration abandoned if the applicant fails to complete the application within 60 days after the commissioner provides the applicant with written notice of the incomplete application. An applicant whose application is abandoned under this section may reapply to obtain a license or registration and shall pay the fee set forth in subsection (c) upon such application.

(e) An application shall be approved, and a nonassignable license or registration shall be issued to the applicant provided:

1. The commissioner has received the complete application and fee required by this section;
2. The commissioner determines the proposed name under which an
applicant for a mortgage company license intends to conduct business is not misleading or otherwise deceptive; and

(3) the commissioner determines the financial responsibility and condition, character, qualifications and fitness of the applicant warrants a belief that the business of the applicant will be conducted competently, honestly, fairly and in accordance with all applicable state and federal laws.

Sec. 3. K.S.A. 2016 Supp. 9-2206 is hereby amended to read as follows: 9-2206. (a) If the commissioner fails to issue a license or registration within 60 days or grant a renewal within 30 days after an application is deemed complete by the commissioner, the applicant may make written request for a hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

(b) If an application is considered abandoned pursuant to K.S.A. 9-2204, and amendments thereto, an applicant may make written request for a hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

Sec. 4. K.S.A. 2016 Supp. 9-2211 is hereby amended to read as follows: 9-2211. (a) Each applicant or licensee who maintains a bona fide office shall file with the commissioner a surety bond in the amount of not less than $50,000, in a form acceptable to the commissioner, issued by an insurance company authorized to conduct business in this state, securing the applicant's or licensee's faithful performance of all duties and obligations of a licensee meeting the following requirements:

(1) The bond shall be payable to the office of the state bank commissioner and shall be in an amount established by the commissioner by rules and regulations adopted pursuant to K.S.A. 9-2209, and amendments thereto;

(2) the terms of the bond shall provide that it may not be terminated without 30 days prior written notice to the commissioner, provided that such termination shall not affect the surety's liability for violations of the Kansas mortgage business act occurring prior to the effective date of cancellation and principal and surety shall be and remain liable for a period of two years from the date of any action or inaction of principal that gives rise to a claim under the bond; and

(3) the bond shall be available for the recovery of expenses, fines and fees levied by the commissioner under this act, and for losses or damages which are determined by the commissioner to have been incurred by any borrower or consumer as a result of the applicant's or licensee's failure to comply with the requirements of this act.

(b) Each applicant or licensee who does not maintain a bona fide office shall comply with both of the following:

(1) File with the commissioner a surety bond in the amount of not
less than $100,000, in a form acceptable to the commissioner, issued by an
insurance company authorized to conduct business in this state, securing
the applicant's or licensee's faithful performance of all duties and
obligations of a licensee meeting the requirements set forth in paragraphs
sections (a)(1), (a)(2) and (a)(3) of this act; and
(2) submit evidence that establishes, to the commissioner's
satisfaction, that the applicant or licensee shall at all times maintain a
minimum net worth of $50,000. Evidence of net worth shall include the
submission of a balance sheet of the applicant or a consolidated financial
statement of the entity that owns or controls the applicant accompanied by
a written statement by an independent certified public accountant attesting
that the balance sheet or the consolidated financial statement has been
reviewed in accordance with generally accepted accounting principles.
Should the applicant or licensee choose a different accounting system
other than generally accepted accounting principles, the burden to
demonstrate that the accounting principles meet or exceed the generally
accepted accounting principles shall be on the applicant or licensee using
the alternate accounting principle method.
Sec. 5. K.S.A. 2016 Supp. 9-2216a is hereby amended to read as
follows: 9-2216a. (a) Each licensee shall annually, on or before April 1,
file a written report with the commissioner containing the information that
the commissioner may reasonably require concerning the licensee's
business and operations during the preceding calendar year. The report
shall be made in the form prescribed by the commissioner, which may
include reports filed with the nationwide mortgage licensing system and
registry. Any licensee who fails to file the report required by this section
with the commissioner by April 1 shall be subject to a late penalty of $100
for each day after April 1 the report is delinquent, but in no event shall the
aggregate of late penalties exceed $5,000. The commissioner may relieve
any licensee from the payment of any penalty, in whole or in part, for good
cause. The filing of the annual written report required under this section
shall satisfy any other reports required of a licensee under this act.
(b) Information contained in the annual report shall be confidential
and may be published only in composite form. The provisions of this
subsection shall expire on July 1, 2022, unless the legislature reviews and
reenacts this provision prior to July 1, 2022.
Sec. 6. K.S.A. 9-2204 and K.S.A. 2016 Supp. 9-2203, 9-2206, 9-2211
and 9-2216a are hereby repealed.
Sec. 7. This act shall take effect and be in force from and after its
publication in the statute book.