

Kansas Financial Institutions Information Security Act; SB 44

SB 44 enacts the Kansas Financial Institutions Information Security Act (Act). The bill designates covered entities, defines terms, outlines requirements for covered entities, and provides for responsibilities of the State Bank Commissioner under the Act.

Covered Entities

The Act applies to the handling of customer information by the following covered entities:

- Credit services organizations;
- Mortgage companies;
- Supervised lenders (*e.g.*, persons authorized to make a consumer loan under the Uniform Consumer Credit Code);
- Financial institutions engaging in money transmission;
- Trust companies; and
- Technology-enabled fiduciary financial institutions.

Definitions

The bill defines terms:

- “Commissioner” means the State Bank Commissioner or the Commissioner’s designee;
- “Covered entity” means each person, applicant, registrant, or licensee subject to regulation by the Office of the State Bank Commissioner that is not directly regulated by a federal banking agency; and
- “Customer information” means any record containing nonpublic personal information about a customer of a covered entity, whether in paper, electronic, or other form, that is handled or maintained by or on behalf of the covered entity or its affiliates.

Covered Entity Requirements

The bill requires a covered entity to:

- Set forth standards for developing, implementing, and maintaining reasonable safeguards to protect the security, confidentiality, and integrity of customer information pursuant to the federal Standards for Safeguarding Consumer Information (16 CFR Part 314);
- Develop and organize its information security system into one or more readily accessible parts; and
- Maintain the program as part of the covered entity's books and records in accordance with its record retention requirements.

Responsibilities of the State Bank Commissioner

The Act will be implemented, administered, and enforced by the Commissioner.

Under the Act, the Commissioner may conduct routine examinations of the operations of a covered entity or investigations of its operations if the Commissioner has reason to believe the covered entity has been engaged or is engaging in any conduct in violation of the Act.

In conducting an investigation or examination or while enforcing the Act, the Commissioner may:

- Issue subpoenas or seek their enforcement in a court of competent jurisdiction;
- Assess fines or civil penalties on a covered entity not to exceed \$5,000 per violation and assess costs of the investigation, examination, or enforcement activity;
- Censure a covered entity if it is registered or licensed;
- Enter into a memorandum of understanding or consent order with a covered entity;
- Issue a summary order to a covered entity;
- Revoke, suspend, or refuse to renew the registration or licensure of a covered entity;
- Order a covered entity to cease and desist from engaging in any conduct in violation of the Act or file an injunction to prohibit the covered entity from continuing such conduct; or
- Issue emergency orders if necessary to prevent harm to consumers.

Any enforcement action required or requested under the Act must be conducted in accordance with the Kansas Administrative Procedure Act and is subject to review in accordance with the Kansas Judicial Review Act.