

HOUSE BILL No. 2216

By Committee on Financial Institutions

2-3

1 AN ACT concerning banks and banking, *financial institutions*; relating to
2 the Kansas money transmitter act, *the Kansas mortgage business act*,
3 *branch banking, remote service units*; amending K.S.A. 2014 Supp. 9-
4 508, 9-509, 9-510, **9-511**, 9-513a ~~and~~, 9-513b, **9-1111 and 9-2201** and
5 repealing the existing sections.
6

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

8 Section 1. K.S.A. 2014 Supp. 9-508 is hereby amended to read as
9 follows: 9-508. As used in this act:

10 (a) "Agent" means ~~either a person receiving~~ *designated by a licensee*
11 *to receive funds from a Kansas resident and forwarding in order to*
12 *forward such funds to a the licensee to effectuate money transmission or a*
13 ~~person designated to otherwise engage in the business of money~~
14 ~~transmission on behalf of the licensee~~ at one or more physical locations
15 throughout the state or through the internet, regardless of whether such
16 person would be exempt from the act by conducting money transmission
17 on such person's own behalf;

18 (b) "commissioner" means the state bank commissioner;

19 (c) "control" means the power directly or indirectly to direct
20 management or policies of a person engaged in money transmission or to
21 vote 25% or more of any class of voting shares of a person engaged in
22 money transmission;

23 (d) "electronic instrument" means a card or other tangible object for
24 the transmission or payment of money, including a prepaid access card or
25 device which contains a microprocessor chip, magnetic stripe or other
26 means for the storage of information, that is prefunded and for which the
27 value is decremented upon each use, but does not include a card or other
28 tangible object that is redeemable by the issuer in goods or services;

29 (e) "licensee" means a person licensed under this act;

30 (f) "nationwide multi-state licensing system and registry" means a
31 licensing system developed and maintained by the conference of state
32 bank supervisors, or its successors and assigns, for the licensing and
33 reporting of those persons engaging in the money transmission;

34 (g) "monetary value" means a medium of exchange, whether or not

1 redeemable in money;

2 (h) "money transmission" means to engage in the business of the sale
3 or issuance of payment instruments or of receiving money or monetary
4 value for transmission to a location within or outside the United States by
5 wire, facsimile, electronic means or any other means, except that money
6 transmission does not include currency exchange where no transmission of
7 money occurs;

8 (i) ~~"outstanding payment instrument" means any payment instrument~~
9 ~~issued by the licensee which has been sold in the United States directly by~~
10 ~~the licensee or any money order or instrument issued by the licensee which~~
11 ~~has been sold by an agent of the licensee in the United States, which has~~
12 ~~been reported to the licensee as having been sold and which has not yet~~
13 ~~been paid by or for the licensee~~ "outstanding payment liability" means:

14 (1) *With respect to a payment instrument, any payment instrument*
15 *issued or sold by the licensee which has been sold in the United States*
16 *directly by the licensee, or any payment instrument that has been sold by*
17 *an agent of the licensee in the United States, which has been reported to*
18 *the licensee as having been sold and which has not yet been paid by or for*
19 *the licensee;*

20 (2) *with respect to the transmission of money or monetary value, any*
21 *money or monetary value the licensee or an agent of the licensee has*
22 *received from a customer in the United States for transmission which has*
23 *not yet been delivered to the recipient or otherwise paid by the licensee;*

24 (j) "payment instrument" means any electronic or written check,
25 draft, money order, travelers check or other electronic or written
26 instrument or order for the transmission or payment of money, sold or
27 issued to one or more persons, whether or not such instrument is
28 negotiable. The term "payment instrument" does not include any credit
29 card voucher, any letter of credit or any instrument which is redeemable by
30 the issuer in goods or services;

31 (k) "permissible investments" means:

32 (1) Cash;

33 (2) deposits in a demand or interest bearing account with a domestic
34 federally insured depository institution, including certificates of deposit;

35 (3) debt obligations of a domestic federally insured depository
36 institution;

37 (4) any investment bearing a rating of one of the three highest grades
38 as defined by a nationally recognized organization that rates such
39 securities;

40 (5) investment grade bonds and other legally created general
41 obligations of a state, an agency or political subdivision of a state, the
42 United States or an instrumentality of the United States;

43 (6) obligations that a state, an agency or political subdivision of a

1 state, the United States or an instrumentality of the United States has
2 unconditionally agreed to purchase, insure or guarantee and that bear a
3 rating of one of the three highest grades as defined by a nationally
4 recognized organization that rates securities;

5 (7) shares in a money market mutual fund, interest-bearing bills or
6 notes or bonds, debentures or stock traded on any national securities
7 exchange or on a national over-the-counter market, or mutual funds
8 primarily composed of such securities or a fund composed of one or more
9 permissible investments as set forth herein;

10 (8) receivables that are payable to a licensee, in the ordinary course of
11 business, pursuant to contracts which are not past due and which do not
12 exceed in the aggregate 40% of the total required permissible investments
13 pursuant to K.S.A. 9-513b, and amendments thereto. A receivable is past
14 due if not remitted to the licensee within 10 business days; or

15 (9) any other investment or security device approved by the
16 commissioner;

17 (l) "person" means any individual, partnership, association, joint-
18 stock association, trust, corporation or any other form of business
19 enterprise;

20 (m) "resident" means any natural person or business entity located in
21 this state; and

22 (n) "tangible net worth" means the physical worth of a licensee,
23 calculated by taking a licensee's assets and subtracting its liabilities and its
24 intangible assets, such as copyrights, patents, intellectual property and
25 goodwill.

26 Sec. 2. K.S.A. 2014 Supp. 9-509 is hereby amended to read as
27 follows: 9-509. (a) No person shall engage in the business of selling,
28 issuing or delivering its payment instrument, check, draft, money order,
29 personal money order, bill of exchange, evidence of indebtedness or other
30 instrument for the transmission or payment of money or otherwise engage
31 in the business of money transmission with a resident of this state, or,
32 except as provided in K.S.A. 9-510, and amendments thereto, act as agent
33 for another in the transmission of money as a service or for a fee or other
34 consideration, unless such person files an application and obtains a license
35 from the commissioner.

36 (b) Each license shall expire December 31 of each year. A license
37 shall be renewed by filing with the commissioner a complete application
38 and nonrefundable application fee at least 30 days prior to expiration of
39 the license. Expired licenses may be reinstated through February 28 of
40 each year by filing a reinstatement application and paying the appropriate
41 application and late fees.

42 (c) It shall be unlawful for a person, acting directly or indirectly or
43 through concert with one or more persons, to acquire control of any person

1 engaged in money transmission through purchase, assignment, pledge or
2 other disposition of voting shares of such money transmitter, except with
3 the prior approval of the commissioner. Request for approval of the
4 proposed acquisition shall be made by filing an application with the
5 commissioner at least 60 days prior to the acquisition.

6 (d) All applications shall be submitted in the form and manner
7 prescribed by the commissioner. Additionally, the following shall apply to
8 all applications:

9 (1) The commissioner may use a nationwide multi-state licensing
10 system and registry for processing applications, renewals, amendments,
11 surrenders, and any other activity the commissioner deems appropriate.
12 The commissioner may also use a nationwide multi-state licensing system
13 and registry for requesting and distributing any information regarding
14 money transmitter licensing to and from any source so directed by the
15 commissioner. The commissioner may establish relationships or contracts
16 with the nationwide multi-state licensing system and registry or other
17 entities to collect and maintain records and process transaction fees or
18 other fees related to applicants, licensees, as may be reasonably necessary
19 to participate in the nationwide multi-state licensing system and registry.
20 The commissioner may report violations of the law, as well as enforcement
21 actions and other relevant information to the nationwide multi-state
22 licensing system and registry. The commissioner may require any
23 applicant or licensee to file reports with the nationwide multi-state
24 licensing system and registry in the form prescribed by the commissioner.

25 (2) An application shall be accompanied by nonrefundable fees
26 established by the commissioner for the license and each agent location.
27 The commissioner shall determine the amount of such fees to provide
28 sufficient funds to meet the budget requirements of administering and
29 enforcing the act for each fiscal year. For the purposes of this subsection,
30 "each agent location" means each physical location within the state where
31 money transmission is conducted, including, but not limited to, branch
32 offices, authorized vendor offices, delegate offices, kiosks and drop boxes.
33 Any person using the multi-state licensing system shall pay all associated
34 costs.

35 (3) (A) The commissioner may require fingerprinting of any
36 individual, officer, director, partner, member, shareholder or any other
37 person related to the application deemed necessary by the commissioner. If
38 the applicant is a publicly traded corporation or a subsidiary of a publicly
39 traded corporation, no fingerprint check shall be required. Fingerprints
40 may be submitted to the Kansas bureau of investigation and the federal
41 bureau of investigation for a state and national criminal history record
42 check. The fingerprints shall be used to identify the person and to
43 determine whether the person has a record of arrests and convictions in

1 this state or other jurisdiction.

2 (B) The commissioner may use information obtained from
3 fingerprinting and the criminal history for purposes of verifying the
4 identification of the person and in the official determination of the
5 qualifications and fitness of the person, or in the case of an applicant
6 company, the persons associated with the company.

7 (C) For purposes of this section and in order to reduce the points of
8 contact which the federal bureau of investigation may have with the
9 individual states, the commissioner may use a nationwide multi-state
10 licensing system and registry for requesting information from and
11 distributing information to the department of justice or any governmental
12 agency.

13 (D) Whenever the commissioner requires fingerprinting, any
14 associated costs shall be paid by the applicant or the parties to the
15 application.

16 (4) Each application shall include audited financial statements for
17 each of the two fiscal years immediately preceding the date of the
18 application and an interim financial statement, as of a date not more than
19 90 days prior to the date of the filing of an application. *The audited and*
20 *interim financial statements shall be prepared in accordance with United*
21 *States generally accepted accounting principles or in any other form or*
22 *manner approved by the commissioner.* Any person not in business two
23 years prior to the filing of the application shall submit a statement in the
24 form and manner prescribed by the commissioner sufficient to demonstrate
25 compliance with subsection (e).

26 (e) In addition, each person submitting an application shall meet the
27 following requirements:

28 (1) The tangible net worth of such person shall be at all times not less
29 than \$250,000, as shown by an audited financial statement and certified to
30 by an owner, a partner or officer of the corporation or other entity filed in
31 the form and manner prescribed by the commissioner. A consolidated
32 financial statement from an applicant's holding company may be accepted
33 by the commissioner. The commissioner may require any person to file a
34 statement at any other time upon request;

35 (2) such person shall deposit and at all times keep on deposit with ~~the~~
36 ~~state treasurer, or a bank in this state approved by the commissioner,~~ cash
37 or securities satisfactory to the commissioner in an amount not less than
38 \$200,000. The commissioner may increase the amount of cash or securities
39 required up to a maximum of ~~\$500,000~~ \$1,000,000 upon the basis of ~~the~~
40 ~~impaired financial condition of a person, as evidenced by a reduction in~~
41 ~~net worth, financial losses or other relevant criteria as determined by the~~
42 ~~commissioner :~~

43 (A) *The volume of money transmission business transacted in this*

1 *state by such person; or*

2 *(B) the impaired financial condition of a licensee, as evidenced by a*
3 *reduction in net worth or financial losses;*

4 (3) in lieu of the deposit of cash or securities required by ~~paragraph~~
5 ~~(B)~~ *this subsection*, such person may give a surety bond in an amount
6 equal to that required for the deposit of cash or securities, in a form
7 satisfactory to the commissioner and issued by a company authorized to do
8 business in this state, which bond shall be payable to the office of the state
9 bank commissioner and be filed with the commissioner; and

10 (4) such person shall submit a list to the commissioner of the names
11 and addresses of other persons who are authorized to act as agents for
12 transactions with Kansas residents.

13 (f) The deposit of cash, securities or surety bond required by this
14 section shall be subject to:

15 (1) Payment to the commissioner for the protection and benefit of
16 purchasers of money transmission services, purchasers or holders of
17 payment instruments furnished by such person, and those for whom such
18 person has agreed to act as agent in transmission of monetary value and to
19 secure the faithful performance of the obligations of such person in respect
20 to the receipt, handling, transmission and payment of monetary value; and

21 (2) payment to the commissioner for satisfaction of any expenses,
22 fines, fees or refunds due pursuant to this act, levied by the commissioner
23 or that become lawfully due pursuant to a final judgment or order.

24 (g) The aggregate liability of the surety for all breaches of the
25 conditions of the bond, in no event, shall exceed the amount of such bond.
26 The surety on the bond shall have the right to cancel such bond upon
27 giving 30 days' notice to the commissioner and thereafter shall be relieved
28 of liability for any breach of condition occurring after the effective date of
29 the cancellation. The commissioner or any aggrieved party may enforce
30 claims against such deposit of cash or securities or surety bond. So long as
31 the depositing person is not in violation of this act, such person shall be
32 permitted to receive all interest and dividends on the deposit and shall
33 have the right to substitute other securities satisfactory to the
34 commissioner. If the deposit is made with a bank, any custodial fees shall
35 be paid by such person.

36 (h) (1) The commissioner shall have the authority to examine the
37 books and records of any person operating in accordance with the
38 provisions of this act, at such person's expense, to verify compliance with
39 state and federal law.

40 (2) *The commissioner may require any person operating in*
41 *accordance with the provisions of this act to maintain such documents and*
42 *records as necessary to verify compliance with this act, or any other*
43 *applicable state or federal law or regulation.*

1 (2) (3) For purposes of investigation, examination or other proceeding
2 under this act, the commissioner may administer or cause to be
3 administered oaths, subpoena witnesses and documents, compel the
4 attendance of witnesses, take evidence and require the production of any
5 document that the commissioner determines to be relevant to the inquiry.

6 (i) Except as authorized with regard to the appointment of agents, a
7 licensee is prohibited from transferring, assigning, allowing another person
8 to use the licensee's license, or aiding any person who does not hold a
9 valid license under this act in engaging in the business of money
10 transmission.

11 Sec. 3. K.S.A. 2014 Supp. 9-510 is hereby amended to read as
12 follows: 9-510. A licensee may engage in the business of money
13 transmission at one or more locations in this state and through or by means
14 of such agents as such licensee may designate and appoint from time to
15 time subject to the following provisions:

16 (+) (a) No agent of a licensee shall be required to comply with the
17 licensing provisions of this act.

18 (2) (b) Only a licensee may designate an agent, ~~except no licensee~~
19 ~~may designate an agent that is not physically located in this state without~~
20 ~~prior approval from the commissioner.~~ **A licensee must obtain prior**
21 **approval from the commissioner to designate an agent that conducts**
22 **money transmission business through the internet without a physical**
23 **location in this state.**

24 (A) (c) No agent shall appoint a subagent.

25 (B) ~~No person acting as an agent for an exempt entity shall be exempt~~
26 ~~from the licensing provisions of this act.~~

27 (3) ~~A person accepting a consumer's funds for transmission through~~
28 ~~an exempt entity is a money transmitter and subject to the provisions of~~
29 ~~this act.~~

30 (d) *A person acting as an agent for an exempt entity or any other*
31 *person accepting funds for transmission through an exempt entity is a*
32 *money transmitter and subject to the provisions of this act.*

33 (4) (e) In conjunction with filing a renewal application, each
34 applicant shall provide in the form and manner prescribed by the
35 commissioner a complete list of its proposed or existing agents. At the end
36 of each calendar quarter each licensee shall provide in the form and
37 manner prescribed by the commissioner any additions or deletions in the
38 licensee's agents.

39 (5) (f) A written contract between a licensee and agent shall be
40 maintained for inspection by the commissioner upon request and the
41 written contract must contain provisions to the following effect:

42 (A) (l) The agent must operate in full compliance with this act and
43 the rules and regulations adopted thereunder.

1 ~~(B)~~ (2) The agent is prohibited from using subagents or conducting
2 money transmission business from locations that have not been approved
3 by the licensee.

4 ~~(C)~~ (3) A description of the specific money services the licensee has
5 permitted the agent to perform on behalf of the licensee.

6 ~~(6)~~ (g) The agent may only conduct activities authorized by the
7 licensee in the written agreement, unless the agent is also a licensee.

8 ~~(7)~~ (h) A licensee may contract with another licensee to use that other
9 licensee's existing authorized agents only for the purpose of loading funds
10 onto existing prepaid access cards. The licensee with the direct contractual
11 relationship with the agents shall record the transactions as such licensee's
12 own. If a shared agent sells new prepaid access cards on behalf of the
13 licensee, then such licensee must directly contract with the agent and
14 comply with all other requirements for designating an agent.

15 ***Sec. 4. K.S.A. 2014 Supp. 9-511 is hereby amended to read as***
16 ***follows: 9-511. The following persons shall be exempt from the***
17 ***provisions of this act:***

18 ***(a) (1) Banks, building and loan associations, savings and loan***
19 ***associations, savings banks or credit unions organized under the laws of***
20 ***and subject to the supervision of this state, another state or the United***
21 ***States;***

22 ***(2) service providers that: (A) By written agreement with the exempt***
23 ***entities listed in (a)(1), provide for receipt and delivery of funds, network***
24 ***access, processing, clearance or settlement services in support of money***
25 ***transmission activities; and (B) allow the state or federal regulators with***
26 ***regulatory jurisdiction over the exempt entity to examine and inspect the***
27 ***applicable records, books and transactions relating to the service***
28 ***provider;***

29 ***(3) the government of the United States and its agencies, including***
30 ***agents of the government and its agencies; or***

31 ~~(3)~~ (4) ***the state of Kansas and its agencies, including agents of the***
32 ***state of Kansas and its agencies.***

33 ***(b) This act also shall not apply to the distribution, transmission or***
34 ***payment of money as a part of the lawful practice of law, bookkeeping,***
35 ***accounting or real estate sales or brokerage or as an incidental and***
36 ***necessary part of any lawful business activity.***

37 ~~Sec. 4.~~ ***5. K.S.A. 2014 Supp. 9-513a is hereby amended to read as***
38 ***follows: 9-513a. The commissioner, after notice and an opportunity for a***
39 ***hearing, may deny, suspend, revoke or refuse to renew a license issued***
40 ***pursuant to this act, or issue a cease and desist order if the commissioner***
41 ***finds any of the following are applicable to any person who is required to***
42 ***be licensed under this act or such person's agent:***

43 ***(a) The financial responsibility, character, reputation, experience and***

1 general fitness of the person, such person's senior officers, directors and
2 principal stockholders are such to warrant the belief that the business may
3 not be operated efficiently, fairly and in the public interest;

4 (b) the person may be financially unable to perform such person's
5 obligations or that the person has willfully failed without reasonable cause
6 to pay or provide for payment of any of such person's obligations related to
7 the person's money transmission business;

8 (c) the person no longer meets a requirement for initial granting of a
9 license;

10 (d) the person has filed with the commissioner any document or
11 statement falsely representing or omitting a material fact;

12 (e) the person concealed a fact or a condition exists which would
13 clearly have justified the commissioner's refusal to grant a license had the
14 fact or condition been known to exist at the time the application for the
15 license was made;

16 (f) the person or a senior officer, director or a stockholder who owns
17 more than 10% of the money transmission business' outstanding stock has
18 been convicted of a crime involving fraud, dishonesty or deceit;

19 (g) there has been entry of a federal or state administrative order
20 against the person for violation of any rule and regulation applicable to the
21 conduct of the person's money transmission business;

22 (h) the person refused to *provide information requested by the*
23 *commissioner or refused* to permit an examination or investigation by the
24 commissioner;

25 (i) a failure to pay to the commissioner any fee required by this act;

26 (j) the person has engaged in any transaction, practice or business
27 conduct that is fraudulent or deceptive in connection with the business of
28 money transmission;

29 (k) the person advertises, displays, distributes, broadcasts or televises
30 any false, misleading or deceptive statement or representation with regard
31 to rates, terms or conditions for the transmission of money;

32 (l) the person fails to keep and maintain sufficient records to permit
33 an audit to satisfactorily disclose to the commissioner the licensee's
34 compliance with the provisions of the act;

35 (m) the person has been the subject of any disciplinary action by this
36 or any other state or federal agency;

37 (n) a final judgment has been entered against the person in a civil
38 action and the commissioner finds the conduct on which the judgment is
39 based indicates that it would be contrary to the public interest to permit
40 such person to be licensed;~~or~~

41 (o) the person has violated any order issued by the commissioner, any
42 provision of this act, any rule and regulation adopted thereto, or any other
43 state or federal law applicable to money transmission; *or*

1 *(p) the person has refused or otherwise failed to provide, after a*
 2 *reasonable time as determined by the commissioner, any information*
 3 *necessary to approve or renew an application or license issued pursuant*
 4 *to this act.*

5 ~~Sec. 5.~~ **6.** K.S.A. 2014 Supp. 9-513b is hereby amended to read as
 6 follows: 9-513b. (a) Each licensee under this act shall at all times possess
 7 permissible investments having an aggregate market value, calculated in
 8 accordance with *United States* generally accepted accounting principles, of
 9 not less than the aggregate amount of ~~all~~ *the* outstanding payment
 10 ~~instruments issued or sold~~ *liability held* by the licensee in the United
 11 States. This requirement may be waived by the commissioner if the dollar
 12 volume of a licensee's outstanding payment ~~instruments~~ *liability* does not
 13 exceed the bond or other security devices posted by the licensee pursuant
 14 to K.S.A. 9-509, and amendments thereto.

15 *(b) In the event of the bankruptcy of the licensee, the* permissible
 16 investments shall be deemed by operation of law to be held in trust for the
 17 benefit of ~~the purchasers and holders of the licensee's outstanding payment~~
 18 ~~instruments in the event of the bankruptcy of the licensee~~ *all persons*
 19 *whose money or monetary value is considered outstanding*, even if such
 20 permissible investments are commingled with other assets of the licensee.

21 **Sec. 7.** *K.S.A. 2014 Supp. 9-2201 is hereby amended to read as*
 22 *follows: 9-2201. As used in this act:*

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

- 26 *(1) The office* ~~Is located in this state;~~
 27 *(2) the office* ~~is not located in a personal residence;~~
 28 *(3) the office* ~~has regular hours of operation;~~
 29 *(4) the office* ~~is accessible to the public;~~
 30 *(5) the office* ~~is leased or owned by the licensee and serves as an~~
 31 *office for the transaction of the licensee's mortgage business;*
 32 *(6) the office* ~~is separate from any office of another registrant; and~~
 33 *(7) is accessible to all of the licensee's books, records and*
 34 *documents* ~~are accessible through that office.~~

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

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

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

41 *(e) "Licensee" means a person who is licensed by the commissioner*
 42 *as a mortgage company.*

43 *(f) "Loan originator" means an individual:*

1 (1) *Who engages in mortgage business on behalf of a single*
2 *mortgage company;*

3 (2) *whose conduct of mortgage business is the responsibility of the*
4 *licensee;*

5 (3) *who takes a residential mortgage loan application or offers or*
6 *negotiates terms of a residential mortgage loan for compensation or gain*
7 *or in the expectation of compensation or gain; and*

8 (4) *whose job responsibilities include contact with borrowers during*
9 *the loan origination process, which can include soliciting, negotiating,*
10 *acquiring, arranging or making mortgage loans for others, obtaining*
11 *personal or financial information, assisting with the preparation of loan*
12 *applications or other documents, quoting loan rates or terms, or*
13 *providing required disclosures. It does not include any individual*
14 *engaged solely as a loan processor or underwriter.*

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

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

21 (A) *The receipt, collection, distribution and analysis of information*
22 *common for the processing or underwriting of a residential mortgage*
23 *loan; and*

24 (B) *communicating with a consumer to obtain the information*
25 *necessary for the processing or underwriting of a loan, to the extent that*
26 *such communication does not include offering or negotiating loan rates*
27 *or terms or counseling consumers about residential mortgage loan rates*
28 *or terms.*

29 (2) *An individual engaging solely in loan processor or underwriter*
30 *activities shall not represent to the public, through advertising or other*
31 *means of communicating or providing information including the use of*
32 *business cards, stationery, brochures, signs, rate lists or other*
33 *promotional items, that such individual can or will perform any of the*
34 *activities of a loan originator.*

35 (h) *"Nationwide mortgage licensing system and registry" means a*
36 *mortgage licensing system developed and maintained by the conference*
37 *of state bank supervisors and the American association of residential*
38 *mortgage regulators for the licensing and registration of licensed*
39 *mortgage loan originators.*

40 (i) *"Mortgage business" means engaging in, or holding out to the*
41 *public as willing to engage in, for compensation or gain, or in the*
42 *expectation of compensation or gain, directly or indirectly, the business*
43 *of making, originating, servicing, soliciting, placing, negotiating,*

1 *acquiring, selling, or arranging for others; or offering to solicit, place,*
2 *negotiate, acquire, sell or arrange for others, mortgage loans in the*
3 *primary market.*

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

7 (k) *"Mortgage loan" means a loan or agreement to extend credit*
8 *made to a natural person which is secured by a first or second mortgage,*
9 *deed of trust, contract for deed or other similar instrument or document*
10 *representing a security interest or lien, except as provided for in K.S.A.*
11 *60-1101 through 60-1110, and amendments thereto, upon any lot intended*
12 *for residential purposes or a one-to-four family dwelling as defined in*
13 *section 103(v) of the truth in lending act, 15 U.S.C. § 1602(v)(w), located*
14 *in this state, occupied or intended to be occupied for residential purposes*
15 *by the owner, including the renewal or refinancing of any such loan.*

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

19 (m) *"Primary market" means the market wherein mortgage loans*
20 *are originated between a lender and a borrower, whether or not through*
21 *a mortgage broker or other means.*

22 (n) *"Principal place of business" means a licensed place of*
23 *business where mortgage business is conducted, which has been*
24 *designated by a licensee as the primary headquarters from which all*
25 *mortgage business and administrative activities are managed and*
26 *directed.*

27 (o) *"Promotional items" means pens, pencils, hats and other such*
28 *novelty items.*

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

32 (q) *"Unique identifier" means a number or other identifier*
33 *assigned by protocols established by the nationwide mortgage licensing*
34 *system and registry.*

35 *Sec. 8. K.S.A. 2014 Supp. 9-1111 is hereby amended to read as*
36 *follows: 9-1111. The general business of every bank shall be transacted*
37 *at the place of business specified in its the bank's certificate of authority*
38 *and at one or more branch banks established and operated as provided*
39 *in this section. Except for the establishment or operation of a trust*
40 *branch bank or the relocation of an existing trust branch bank pursuant*
41 *to K.S.A. 9-1135, and amendments thereto, it shall be unlawful for any*
42 *bank to establish and operate any branch bank or relocate an existing*
43 *branch bank except as hereinafter provided. Notwithstanding the*

1 *provisions of this section, any location at which a depository institution,*
2 *as defined by K.S.A. 9-701, and amendments thereto, receives deposits,*
3 *renews time deposits, closes loans, services loans or receives payments*
4 *on loans or other obligations, as agent, for a bank pursuant to ~~subsection~~*
5 *(~~25~~) of K.S.A. 9-1101(~~25~~), and amendments thereto, or other applicable*
6 *state or federal law, or is authorized to open accounts or receive deposits*
7 *under ~~subsection (28)~~ of K.S.A. 9-1101(~~28~~), and amendments thereto,*
8 *shall not be deemed to be a branch bank:*

9 *(a) For the purposes of this section, the term "branch bank" means*
10 *any office, agency or other place of business located within this state,*
11 *other than the place of business specified in the bank's certificate of*
12 *authority, at which deposits are received, checks paid, money lent or*
13 *trust authority exercised, if approval has been granted by the state bank*
14 *commissioner, under K.S.A. 9-1602, and amendments thereto;*

15 *(b) establishment of a new branch or relocation of an existing*
16 *branch for eligible banks:*

17 *(1) After first applying for and obtaining the approval of the*
18 *commissioner, an eligible bank incorporated under the laws of this state,*
19 *may establish and operate one or more branch banks or relocate an*
20 *existing branch bank, anywhere within this state;*

21 *(2) the application shall include the nature of the banking business*
22 *to be conducted at the proposed branch bank, the primary geographical*
23 *area to be served by ~~it~~ the proposed branch bank, the personnel and*
24 *office facilities to be provided at the proposed branch bank and other*
25 *information the commissioner may require;*

26 *(3) the application shall include the name selected for the proposed*
27 *branch bank. The name selected for the proposed branch bank shall not*
28 *be the name of any other bank or branch bank doing business within a*
29 *15 mile radius of the same city or town, nor shall the name selected be*
30 *required to contain the name of the applicant bank. If the name selected*
31 *for the proposed branch bank does not contain the name of the applicant*
32 *bank, the branch bank shall provide in the public lobby of such branch*
33 *bank, a public notice that ~~it~~ such bank is a branch bank of the applicant*
34 *bank;*

35 *(4) the application shall include proof of publication of notice that*
36 *the applicant bank intends to file or has filed an application to establish*
37 *a branch bank or relocate an existing branch bank. The notice shall be*
38 *published in a newspaper of general circulation in the county where the*
39 *applicant bank proposes to locate the branch bank. The notice shall be*
40 *in the form prescribed by the commissioner and at a minimum shall*
41 *contain the name and address of the applicant bank, the location of the*
42 *proposed branch and a solicitation for written comments. The notice*
43 *shall be published on the same day for two consecutive weeks and*

1 *provide for a comment period of not less than 10 days after the date of*
2 *the second publication;*

3 *(5) upon receipt of the application, and following expiration of the*
4 *comment period, the commissioner may hold a hearing in the county in*
5 *which the applicant bank seeks to operate the branch bank. The*
6 *applicant shall publish notice of the time, date and place of such hearing*
7 *in a newspaper of general circulation in the county where the applicant*
8 *bank proposes to locate the branch bank, not less than 10 nor more than*
9 *30 days prior to the date of the hearing, and proof of publication shall be*
10 *filed with the commissioner. At any such hearing, all interested persons*
11 *shall be allowed to present written and oral evidence to the*
12 *commissioner, or the commissioner's designee, in support of or in*
13 *opposition to the branch bank. Upon completion of a transcript of the*
14 *testimony given at any such hearing, the transcript shall be filed in the*
15 *office of the commissioner;*

16 *(6) if the commissioner determines a public hearing is not*
17 *warranted, the commissioner shall approve or disapprove the application*
18 *within 15 days after receipt of a complete application but not prior to the*
19 *end of the comment period. If a public hearing is held, the commissioner*
20 *shall approve or disapprove the application within 60 days after*
21 *consideration of the complete application and the evidence gathered*
22 *during the commissioner's investigation. The period for consideration of*
23 *the application may be extended if the commissioner determines the*
24 *application presents a significant supervisory concern. If the*
25 *commissioner finds that:*

26 *(A) There is a reasonable probability of usefulness and success of*
27 *the proposed branch bank; and*

28 *(B) the applicant bank's financial history and condition is sound,*
29 *the new branch or relocation shall be granted, otherwise,—it the*
30 *relocation shall be denied;*

31 *(7) within 15 days after any final action of the commissioner*
32 *approving or disapproving an application, the applicant, or any*
33 *adversely affected or aggrieved person who provided written comments*
34 *during the specified comment period, may request a hearing with the*
35 *state banking board. Upon receipt of a timely request, the board shall*
36 *conduct a hearing in accordance with the provisions of the Kansas*
37 *administrative procedure act. Any decision of the state banking board is*
38 *subject to review in accordance with the Kansas judicial review act;*

39 *(c) the establishment of a new branch or relocation of an existing*
40 *branch for banks which do not meet the definition of "eligible bank"*
41 *shall require that:*

42 *(1) After first applying for and obtaining the approval of the state*
43 *banking board, a bank incorporated under the laws of this state, which*

1 *does not meet the definition of "eligible bank," may establish and*
2 *operate one or more branch banks, or relocate an existing branch bank,*
3 *anywhere within this state;*

4 *(2) an application under paragraph (1) of this subsection, to*
5 *establish and operate a branch bank or to relocate an existing branch*
6 *bank shall be in such form and contain such information as the rules*
7 *and regulations of the state bank commissioner, adopted pursuant to*
8 *K.S.A. 9-1713, and amendments thereto, shall provide;:*

9 ~~(3) the application shall include~~ *(A) Estimates of the annual*
10 *income and expenses of the proposed branch bank, the annual volume*
11 *of business to be transacted by it, the nature of the banking business to*
12 *be conducted at the proposed branch bank, the primary geographical*
13 *area to be served by it and the personnel and office facilities to be*
14 *provided at the proposed branch bank;*

15 ~~(4) the application shall include~~ *(B) the name selected for the*
16 *proposed branch bank. The name selected for the proposed branch bank*
17 *shall not be the name of any other bank or branch bank doing business*
18 *within a 15 mile radius of the same city or town, nor shall the name*
19 *selected be required to contain the name of the applicant bank. If the*
20 *name selected for the proposed bank does not contain the name of the*
21 *applicant bank, the branch bank shall provide in the public lobby of*
22 *such branch bank, a public notice that it is a branch bank of the*
23 *applicant bank; and*

24 ~~(5) the application shall include~~ *(C) proof of publication of notice*
25 *that applicant bank intends to file an application to establish a branch*
26 *bank or relocate an existing branch bank. The notice shall be published*
27 *in a newspaper of general circulation in the county where the applicant*
28 *bank proposes to locate the branch bank. The notice shall be in the form*
29 *prescribed by the state banking board and at a minimum shall contain*
30 *the name and address of the applicant bank, the location of the proposed*
31 *branch and a solicitation for written comments. The notice shall be*
32 *published on the same day for two consecutive weeks and provide for a*
33 *comment period of not less than 10 days after the date of the second*
34 *publication;*

35 ~~(6) (3) upon receipt of an application meeting the above~~
36 *requirements of paragraph (2), and following the expiration of the*
37 *comment period, within 60 days the state banking board may hold a*
38 *hearing in the county in which the applicant bank seeks to establish and*
39 *operate a branch bank. Notice of the time, date and place of such*
40 *hearing if one is to be held shall be published in a newspaper of general*
41 *circulation in the county where the applicant bank proposes to locate the*
42 *branch bank not less than 10 or more than 30 days prior to the date of*
43 *the hearing, and proof of publication shall be filed with the*

1 *commissioner. At any such hearing, all interested persons shall be*
2 *allowed to present written and oral evidence to the board in support of or*
3 *in opposition to the application. Upon completion of a transcript of the*
4 *testimony given at any such hearing, the transcript shall be filed in the*
5 *office of the commissioner and copies shall be furnished to the members*
6 *of the state banking board not less than 10 days prior to the meeting of*
7 *the board at which the application will be considered;*

8 ~~(7)~~ (4) *the state banking board shall approve or disapprove the*
9 *application within 90 days after consideration of the application and the*
10 *evidence gathered during the board's investigation. If the board finds*
11 *that:*

12 (A) *There is a reasonable probability of usefulness and success of*
13 *the proposed branch bank; and*

14 (B) *the applicant bank's financial history and condition is sound,*
15 *the application shall be granted, otherwise, the application shall be*
16 *denied; and*

17 ~~(8)~~ (5) *any final action of the board approving or disapproving an*
18 *application shall be subject to review in accordance with the Kansas*
19 *judicial review act upon the petition of the applicant or any adversely*
20 *affected or aggrieved person who provided written comments during the*
21 *specified comment period;*

22 (d) *any branch bank lawfully established and operating on the*
23 *effective date of this act may continue to be operated by the bank then*
24 *operating the branch bank and by any successor bank;*

25 (e) *branch banks which have been established and are being*
26 *maintained by a bank at the time of ~~its~~ the branch bank's merger into or*
27 *consolidation with another bank or at the time ~~its~~ such branch bank's*
28 *assets are purchased and ~~its~~ the branch bank's liabilities are assumed by*
29 *another bank may continue to be operated by the surviving, resulting or*
30 *purchasing and assuming bank. The surviving, resulting or purchasing*
31 *and assuming bank, with approval of the state bank commissioner, may*
32 *establish and operate a branch bank or banks at the site or sites of the*
33 *merged, constituent or liquidated bank or banks;*

34 (f) *any state bank or national banking association may provide and*
35 *engage in banking transactions by means of remote service units*
36 *wherever located, which remote service units shall not be considered to*
37 *be branch banks. Any banking transaction effected by use of a remote*
38 *service unit shall be deemed to be transacted at a bank and not at a*
39 *remote service unit;*

40 (g) *as a condition to the operation and use of any remote service*
41 *unit in this state, a state bank or national banking association, each*
42 *hereinafter referred to as a bank, which desires to operate or enable its*
43 *customers to utilize a remote service unit must agree that such remote*

1 *service unit will be available for use by customers of any other bank or*
2 *banks upon the request of such bank or banks to share ~~its~~ the remote*
3 *service unit's use and the agreement of such bank or banks to share all*
4 *costs, including a reasonable return on capital expenditures incurred in*
5 *connection with ~~its~~ the remote service unit's development, installation*
6 *and operation. The owner of the remote service unit, whether a bank or*
7 *any other person, shall make the remote service unit available for use by*
8 *other banks and ~~their~~ the bank's customers on a nondiscriminatory basis,*
9 *conditioned upon payment of a reasonable proportion of all costs,*
10 *including a reasonable return on capital expenditures incurred in*
11 *connection with the development, installation and operation of the*
12 *remote service unit. Notwithstanding the foregoing provisions of this*
13 *subsection, a remote service unit located on the property owned or leased*
14 *by the bank where the principal place of business of a bank, or an*
15 *attached auxiliary teller facility or branch bank of a bank, is located*
16 *need not be made available for use by any other bank or banks or*
17 *customers of any other bank or banks;*

18 *(h) for purposes of this section, "remote service unit" means an*
19 *electronic information processing device, including associated*
20 *equipment, structures and systems, through or by means of which*
21 *information relating to financial services rendered to the public is stored*
22 *and transmitted, ~~whether instantaneously or otherwise,~~ to a bank and*
23 *which, for activation and account access, is dependent upon the use of a*
24 *machine-readable instrument in the possession and control of the holder*
25 *of an account with a bank or is activated by a person upon verifiable*
26 *personal identification. The term shall include "online" computer*
27 *terminals that may be equipped with a telephone or televideo device that*
28 *allows contact with bank personnel and "offline" automated cash*
29 *dispensing machines and automated teller machines, ~~but shall not~~*
30 *~~include computer terminals or automated teller machines or automated~~*
31 *~~cash dispensing machines using systems in which account numbers are not~~*
32 *~~machine read and verified. Withdrawals by means of "offline" systems~~*
33 *~~shall not exceed \$300 per transaction and shall be restricted to~~*
34 *~~individual not corporate or commercial accounts;~~*

35 *(i) for purposes of this section, "eligible bank" means a state bank*
36 *that meets the following criteria:*

37 *(1) Received a composite rating of 1 or 2 under the uniform*
38 *financial institutions rating system as a result of its most recent federal*
39 *or state examination;*

40 *(2) meets the following three criteria for a well capitalized bank:*

41 *(A) Has a total risk based capital ratio of 10% or greater;*

42 *(B) has a tier one risk based capital ratio of 6% or greater; and*

43 *(C) has a leverage ratio of 5% or greater; and*

1 ***(3) is not subject to a cease and desist order, consent order, prompt***
2 ***corrective action directive, written agreement, memorandum of***
3 ***understanding or other administrative agreement with—its the bank's***
4 ***primary federal regulator or the office of the state bank commissioner.***

5 Sec. ~~6~~ **9.** K.S.A. 2014 Supp. 9-508, 9-509, 9-510, **9-511**, 9-513a ~~and~~,
6 9-513b, **9-1111 and 9-2201** are hereby repealed.

7 Sec. ~~7~~ **10.** This act shall take effect and be in force from and after its
8 publication in the statute book.