



Office of the State Bank Commissioner

Regulatory Mailing

RM2003-2

TO: All Kansas State-Chartered Banks
FROM: Clarence W. Norris, Bank Commissioner
DATE: May 27, 2003
RE: Changes to K.A.R. 17-11-18, Loan Documentation

Attached please find a copy of revised K.A.R. 17-11-18. This regulation sets out various documentation requirements for loans made by state-chartered banks. A new provision was added, at (b)(1) (C) of the regulation, which will take effect on May 30, 2003. The new provision authorizes banks to use a mortgage insurance product for non-purchase money mortgage loans that are not refinances of existing mortgages (meaning, for the most part, subordinate mortgages of some kind). These types of insurance products are designed to insure the bank's mortgage priority position with respect to the property. This new option may be used for loans in an amount less than \$50,000. If a bank chooses to use this type of insurance product, a copy of the policy should be available for review by examiners, and banks should be prepared to document that they have established procedures to maintain all necessary records in order to comply with the insurance policy's requirements for coverage.

A new page for your Kansas Banking Law Book will be prepared in the near future to incorporate this change. However, until that time, you should line through K.A.R. 17-11-18 in your law book, and insert this mailing in your book for reference. Please feel free to contact the office with any questions or concerns.

17-11-18. Loans; documentation requirements. (a) Complete and current credit information, not older than 15 months, shall be maintained by the bank or trust company for any loan in excess of \$25,000 unless the loan is adequately secured.

(b) Title security. Unless loan repayment is guaranteed by a governmental program or private insurance company, the following requirements shall be met:

(1) For each real estate loan in excess of \$25,000 but less than \$50,000, the bank or trust company shall complete one of the following tasks.

(A) The bank or trust company shall verify in writing that a lien search of the records of the county register of deed's office was conducted and the bank's or trust company's lien position was determined. This verification of a lien search shall be on file with the bank or trust company.

(B) The bank or trust company shall obtain an attorney's opinion or title insurance policy, and shall maintain the policy on file.

(C) The bank or trust company shall obtain an insurance policy fully insuring the bank or trust company against loss of the mortgage position. The bank or trust company shall maintain a copy of the policy and any other supporting information on file.

(2) For each real estate loan of \$50,000 or more, an attorney's opinion or a title insurance policy shall be on file with the bank or trust company.

(c) If the value of the improvements on any real estate is necessary for adequate protection of the loan, an insurance policy covering these improvements against fire and windstorm shall be on file with the bank for any loan in excess of \$25,000.

(d) A real estate mortgage or deed of trust, showing the filing information with the county register of deeds, shall be on file for each loan collateralized by real estate.

(e) For any loan collateralized by personal property, if the bank is required by law to file a financing statement to perfect a security interest, the bank or trust company shall retain a copy of the filed financing statement. In other cases, relevant documents shall be maintained. (Authorized by K.S.A. 2000 Supp. 9-1713; implementing K.S.A. 2000 Supp. 9-1101, as amended by L. 2001, ch. 87, §5, and 9-2103, as amended by L. 2001, ch. 27, §1; effective Jan. 1, 1966; amended May 1, 1983; amended Jan. 27, 1992; amended Aug. 9, 1996; amended Jan. 18, 2002; amended P-_____.)