

## Article 22.-MORTGAGE BUSINESS

**K.S.A.9-2201. Mortgage business; definitions.** As used in this act: (a) "Bona fide office" means an applicant's or licensee's principal place of business which meets all of the following requirements:

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

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

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

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

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

(f) "Loan originator" means an individual:

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

(2) who is registered with the commissioner as required by this act;

(3) whose conduct of mortgage business is the responsibility of the licensee; and

(4) whose job responsibilities include direct contact with borrowers during the loan origination process, which can include soliciting, negotiating, acquiring, arranging or making mortgage loans for others, obtaining personal or financial information, assisting with the preparation of loan applications or other documents, quoting loan rates or terms, or providing required disclosures. It does not mean a person whose job responsibilities on behalf of a licensee are solely clerical in nature.

(g) "Mortgage business" means engaging in, or holding out to the public as willing to engage in, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly, the business of making, originating, servicing, soliciting, placing, negotiating, acquiring, selling, or arranging for others, or offering to solicit, place, negotiate, acquire, sell or arrange for others, mortgage loans in the primary market.

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

(i) "Mortgage loan" means a loan or agreement to extend credit made to a natural person which is secured by a first or second mortgage, deed of trust, contract for deed or other similar instrument or document representing a security interest or lien upon any lot intended for residential purposes or a one-to-four family dwelling, located in this state, occupied or intended to be occupied for residential purposes by the owner, including the renewal or refinancing of any such loan.

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

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

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

(m) "Promotional items" means pens, pencils, hats and other such novelty items.

(n) "Registrant" means any individual who holds a valid registration to conduct mortgage business in this state as a loan originator.

History: L. 1996, ch. 175, § 1; L. 1999, ch. 45, § 1; L. 2001, ch. 88, § 2; L. 2001, ch. 166, § 1; Nov. 1.

**K.S.A.9-2202. Exempt from licensure.** The following are exempt from the licensing requirements of this act:

(a) Any bank, savings bank, trust company, savings and loan association, building and loan association, industrial loan company or credit union organized, chartered or authorized under the laws of the United States or of any state which is authorized to make loans and to receive deposits;

(b) any entity directly or indirectly regulated by an agency of the United States or of any state which is a subsidiary or affiliate of any entity listed in subsection (a) if 25% or more of such entity's common stock is owned by any entity listed in subsection (a);

(c) any person who is registered as a loan broker pursuant to K.S.A. 50-1001 et seq., and amendments thereto, or who is licensed as a supervised lender pursuant to K.S.A. 16a-2-301 et seq., and amendments thereto;

(d) the United States of America, the state of Kansas, any other state, or any agency or instrumentality of any governmental entity; and

(e) any individual who with their own funds for their own investment makes a purchase money mortgage or finances the sale of their own property, except that any person who enters into more than five such investments or sales in any twelve-month period shall be subject to all provisions of this act.

History: L. 1996, ch. 175, § 2; L. 1999, ch. 45, § 2; L. 2001, ch. 88, § 3; Nov. 1.

**K.S.A.9-2203. License required to conduct mortgage business; registration required for a loan originator; penalty.** (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. 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.

(c) 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.

(d) 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.

(e) Nothing in this act limits the power of the state to punish any person for any conduct which constitutes a crime by statute.

History: L. 1996, ch. 175, § 3; L. 1999, ch. 45, § 3; L. 2001, ch. 88, § 4; L. 2005, ch.144, §1;July 1.

**K.S.A.9-2204. Application for license for mortgage company; application for registration for loan originator; content.** (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) 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.

History: L. 1996, ch. 175, § 4; L. 1999, ch. 45, § 4; L. 2000, ch. 17, § 1; L. 2001, ch. 88, § 5; Nov. 1.

**K.S.A. 9-2205. License or registration; renewal.** (a) A license or registration shall become effective as of the date specified on the face of the certificate

(b) A license shall be renewed in each odd-numbered year by filing with the commissioner, at least 30 days prior to the expiration of the license, a renewal application, containing information the commissioner requires to determine the existence of material changes from the information contained in the applicant's original license application or prior renewal applications.

(c) A registration shall be renewed annually by filing with the commissioner, at least 30 days prior to the expiration of the registration, a renewal application, containing information the commissioner requires to determine the existence of material changes from the information contained in the applicant's original registration application or prior renewal applications, including the completion of any continuing education requirements.

(d) Each renewal application shall be accompanied by a nonrefundable fee which shall be established by rules and regulations pursuant to K.S.A. 9-2209, and amendments thereto.

(e) Any renewal application received by the commissioner after the expiration date of the current license or registration shall be treated as an original application and be subject to all reporting and fee requirements contained in K.S.A. 9-2204, and amendments thereto.

History: L. 1996, ch. 175, § 5; L. 1999, ch. 45, § 5; L. 2001, ch. 88, § 6; L. 2005, ch. 144, §2; July 1.

**K.S.A.9-2206. Application denied; appeal.** If the commissioner fails to issue a license or registration within 60 days or grant a renewal within 30 days after a filed application is deemed complete by the commissioner, the applicant may make written request for hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

History: L. 1996, ch. 175, § 6; L. 1999, ch. 45, § 6; L. 2001, ch. 88, § 7; Nov. 1.

**K.S.A.9-2207. Denial, suspension or revocation of license or registration; notice.** The commissioner may deny, suspend, revoke, or refuse to renew a license or registration issued pursuant to this act, if the commissioner finds, after notice and opportunity for a hearing conducted in accordance with the provisions of the administrative procedures act, that:

(a) The applicant, licensee or registrant has repeatedly or willfully violated any section of this act or any rule and regulation or order lawfully made pursuant to this act;

(b) facts or conditions exist which would have justified the denial of the license, registration or renewal had these facts or conditions existed or been known to exist at the time the application for the license, registration or renewal was made;

(c) the applicant, licensee or registrant has filed with the commissioner any document or statement containing any false representation of a material fact or fails to state a material fact;

(d) the applicant, licensee or registrant has been convicted of any crime involving fraud, dishonesty or deceit;

(e) the applicant, licensee or registrant has engaged in or is engaging in deceptive business practices;

(f) the applicant, licensee or registrant, or an employee of the applicant, licensee or registrant, has been the subject of any disciplinary action by this agency or any other state or federal regulatory agency;

(g) a final judgment has been entered against the applicant, licensee or registrant in a civil action and the commissioner finds, based upon the conduct on which the judgment is based, that licensing or registration of such person would be contrary to the public interest;

(h) the applicant, licensee or registrant, or an employee of the applicant, licensee or registrant has been convicted of engaging in mortgage business activity without authorization pursuant to K.S.A. 9-2203, and amendments thereto or a substantially similar offense in another state; or

(i) the applicant, licensee or registrant has refused to furnish information required by the commissioner within a reasonable period of time as established by the commissioner.

History: L. 1996, ch. 175, § 7; L. 1999, ch. 45, § 7; L. 2000, ch. 17, § 2; L. 2001, ch. 88, § 8; Nov. 1.

**K.S.A.9-2208. License; display; signed acknowledgment; contents; advertising or solicitation disclosure.** (a) Each licensee shall prominently display the license of any principal place of business and any branch office in a way that reasonably assures recognition by customers and members of the general public who enter the licensee's place of business.

(b) Prior to entering into any contract for the provision of services or prior to the licensee receiving any compensation or promise of compensation for a mortgage loan the licensee shall acquire from the customer a signed acknowledgment containing such information as the commissioner may prescribe by rule and regulation. The signed acknowledgment shall be retained by the licensee and a copy shall be provided to the customer.

(c) All solicitations and published advertisements concerning mortgage business directed at Kansas residents, including those on the internet or by other electronic means, shall contain the words "Kansas licensed mortgage company," and must also contain the name and license number of the licensee, which shall be the same as the name and number on record with the commissioner. Each licensee shall maintain a record of all solicitations or advertisements for a period of 25 months. For the purpose of this subsection, "advertising" does not include business cards or promotional items.

(d) No solicitation or advertisement shall contain false, misleading or deceptive information, or indicate or imply that the interest rates or charges stated are "recommended," "approved," "set" or "established" by the state of Kansas.

(e) No licensee or registrant shall conduct mortgage business in this state using any name other than the name or names stated on their license or registration.

History: L. 1996, ch. 175, § 8; L. 1999, ch. 45, § 8; L. 2000, ch. 17, § 3; L. 2001, ch. 88, § 9; L. 2005, ch. 144, §3, July 1.

**K.S.A.9-2209. Commissioner, powers and duties.** (a) The commissioner may exercise the following powers:

(1) Adopt rules and regulations as necessary to carry out the intent and purpose of this act;

(2) make investigations and examinations of the licensee's operations, books and records as the commissioner deems necessary for the protection of the public;

(3) charge reasonable costs of investigation, administration or examination to be paid by the applicant, licensee or registrant under investigation, examination or requiring administrative action;

(4) order any licensee or registrant to cease any activity or practice which the commissioner deems to be deceptive, dishonest, violative of state or federal law or unduly harmful to the interests of the public;

(5) exchange any information regarding the administration of this act with any agency of the United States or any state which regulates the licensee or registrant or administers statutes, rules and regulations or programs related to mortgage loans;

(6) disclose to any person or entity that an applicant's, licensee's or registrant's application, license or registration has been denied, suspended, revoked or refused renewal;

(7) require or permit any person to file a written statement, under oath or otherwise as the commissioner may direct, setting forth all the facts and circumstances concerning any apparent violation of this act, or any rule and regulation promulgated thereunder or any order issued pursuant to this act;

(8) receive, as a condition in settlement of any investigation or examination, a payment designated for consumer education to be expended for such purpose as directed by the commissioner;

(9) require that any applicant, registrant, licensee or other person successfully passes a standardized examination designed to establish such person's knowledge of mortgage business transactions and all applicable state and federal law. Such examinations shall be created and administered by the commissioner, or the commissioner's designee, and may be made a condition of application approval or application renewal; and

(10) require that any licensee, registrant or other person complete a minimum number of continuing education hours on an annual or biannual basis. Continuing education courses shall be approved by the commissioner, or the commissioner's designee, and may be made a condition of application renewal.

(11) require fingerprinting of any applicant, registrant, licensee, members thereof if a copartnership or association, or officers and directors thereof if a corporation, or any agent acting on their behalf, or other person as deemed appropriate by the commissioner. The commissioner, or the commissioner's designee, may submit such fingerprints to the Kansas bureau of investigation, federal bureau of investigation or other law enforcement agency for the purposes of verifying the identity of such persons and obtaining records of their criminal arrests and convictions;

(12) refer such evidence as may be available concerning any violation of this act or of any rule and regulation or order hereunder to the attorney general or the proper county or district attorney, who may in the prosecutor's discretion, with or without such a referral, institute the appropriate criminal proceedings under this act. Upon receipt of such referral, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the commissioner prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the commissioner, such employee shall be appointed a special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the attorney general or the county attorney or district attorney; and

(13) issue and apply to enforce subpoenas in this state at the request of a comparable official of another state if the activities constituting an alleged violation for which the information is sought would be a violation of the Kansas mortgage business act if the activities had occurred in this state.

(b) For the purpose of any examination, investigation or proceeding under this act, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel such witnesses' attendance, adduce evidence and require the production of any matter which is relevant to the examination or investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of person having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of relevant information or items.

(c) In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the commissioner, may issue to that person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there, to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt of court.

(d) No person is excused from attending and testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. No individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

History: L. 1996, ch. 175, § 9; L. 1999, ch. 45, § 9; L. 2000, ch. 17, § 4; L. 2001, ch. 88, § 10; L. 2005, ch. 144, §4; July 1.

**K.S.A.9-2210. Fees; disposition.** All fees collected by the commissioner pursuant to this act shall be subject to the provisions of K.S.A. 75-1308 and amendments thereto.

History: L. 1996, ch. 175, § 10; Apr. 25.

**K.S.A.9-2211. Bonding requirements; minimum net worth requirements.** (a)

Each applicant or licensee who maintains a bona fide office shall file with the commissioner a surety bond in the amount of \$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;

(2) the terms of the bond shall provide that it may not be terminated without 30 days prior written notice to the commissioner; 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 \$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 following requirements:

(A) The bond shall be payable to the office of the state bank commissioner;

(B) the terms of the bond shall provide that it may not be terminated without 30 days prior written notice to the commissioner; and

(C) 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;

(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 accompanied by a written statement by an independent certified public accountant attesting that the balance sheet has been reviewed in accordance with generally accepted accounting principles.

History: L. 1999, ch. 45, § 10; L. 2001, ch. 88, § 11; L. 2005, ch. 144; §5; July 1.

**K.S.A.9-2212. Prohibited acts for persons licensed or registered under act.**

No person required to be licensed or registered under this act shall: (a) Pay compensation to, contract with or employ in any manner, any person engaged in mortgage business who is not properly licensed or registered, unless such person meets the requirements of K.S.A. 9-2202, and amendments thereto;

(b) without the prior written approval of the commissioner employ any person who has:

(1) Had a license or registration denied, revoked, suspended or refused renewal; or

(2) been convicted of any crime involving fraud, dishonesty or deceit;

(c) delay closing of a mortgage loan for the purpose of increasing interest, costs, fees or charges payable by the borrower;

(d) misrepresent the material facts or make false promises intended to influence, persuade or induce an applicant for a mortgage loan or mortgagee to take a mortgage loan or cause or contribute to misrepresentation by any person acting on the licensee's behalf;

(e) misrepresent to or conceal from an applicant for a mortgage loan or mortgagor, material facts, terms or conditions of a transaction to which the licensee or registrant is a party;

(f) engage in any transaction, practice or business conduct that is not in good faith, or that operates a fraud upon any person in connection with the making of or purchase or sale of any mortgage loan;

(g) receive compensation for rendering mortgage business services where the licensee or registrant has otherwise acted as a real estate broker or agent in connection with the sale of the real estate which secures the mortgage

transaction unless the licensee or registrant has provided written disclosure to the person from whom compensation is collected that the licensee or registrant is receiving compensation both for mortgage business services and for real estate broker or agent services;

(h) engage in any fraudulent residential mortgage brokerage or underwriting practices;

(i) advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner, any false, misleading or deceptive statement or representation with regard to rates, terms or conditions for a mortgage loan;

(j) record a mortgage if moneys are not available for the immediate disbursement to the mortgagor unless, before that recording, the licensee informs the mortgagor in writing of a definite date by which payment shall be made and obtains the mortgagor's written permission for the delay; or

(k) transfer, assign or attempt to transfer or assign, a license or registration to any other person.

History: L. 1999, ch. 45, § 11; L. 2000, ch. 17, § 5; L. 2001, ch. 88, § 12; Nov. 1.

**K.S.A.9-2213. Time limit for deposit of escrow funds; records required.** (a)

Within three business days of receipt a licensee shall deposit all fees and money received from a borrower prior to the time a loan is consummated in an escrow account in a bank, savings bank, savings and loan association or credit union incorporated under the laws of this state, or organized under the laws of the United States or another state

(b) For each borrower the licensee shall maintain a separate record of all money received for any service performed or to be performed, including any payment to a third party, setting forth:

(1) The date the money was received;

(2) the amount of money received;

(3) the date the money was deposited in the escrow account; and

(4) the date, description, and justification for each disbursement.

(c) Upon the request of a borrower, a copy of the record required by subsection (b) shall be provided to the borrower:

(1) Within five business days of consummation of the loan; or

(2) within five business days of receipt of written notice of the borrower's intention to withdraw from the loan transaction.

History: L. 1999, ch. 45, § 12; L. 2000, ch. 17, § 6; L. 2001, ch. 88, § 13; Nov. 1.

**K.S.A.9-2214. Ownership of documents.** All original documents provided to the licensee by the borrower or at the expense of the borrower, including any appraisals, are the property of the borrower and at the borrower's request, shall

be returned to the borrower without further expense if the loan is not consummated.

History: L. 1999, ch. 45, § 13; L. 2001, ch. 88, § 14; Nov. 1.

**K.S.A.9-2215. Change in licensee's business; notice.** (a) A licensee shall provide written notice to the commissioner within 10 business days of the occurrence of any of the following events:

(1) The closing or relocation of the principal place of business or any branch office;

(2) a change in the licensee's name or legal entity status; or

(3) the addition or loss of any loan originator, owner, officer, partner or director.

(b) The commissioner may request additional information concerning any written notice received pursuant to subsection (a) and charge a reasonable fee for any action required by the commissioner as a result of such notice and additional information.

History: L. 1999, ch. 45, § 14; L. 2001, ch. 88, § 15; Nov. 1.

**K.S.A.9-2216. Retention of records; time period; inspection of records.** (a) A licensee shall keep for at least 25 months copies of all documents or correspondence received or prepared by the licensee or registrant in connection with a loan or loan application and those records and documents required by the commissioner by rules and regulations adopted pursuant to K.S.A. 9-2209, and amendments thereto. If the loan is not serviced by a licensee, the retention period commences on the date the loan is closed or, if the loan is not closed, the date of the loan application. If the loan is serviced by a licensee, the retention period commences on the date the loan is paid in full or the date the licensee ceases to service the loan.

(b) All books, records and any other documents held by the licensee shall be made available for examination and inspection by the commissioner or the commissioner's designee. Certified copies of all records not kept within this state shall be delivered to the commissioner within three business days of the date such documents are requested.

(c) No person required to be licensed or registered under this act shall:

(1) Alter, destroy, shred, mutilate, conceal, cover up or falsify any record with the intent to impede, obstruct or influence any investigation by the commissioner or the commissioner's designee; or

(2) alter, destroy, shred, mutilate or conceal a record with the intent to impair the object's integrity or availability for use in a proceeding before the commissioner or a proceeding brought by the commissioner.

History: L. 1999, ch. 45, § 15; L. 2001, ch. 88, § 16; L. 2005, ch. 144, §6; July 1.

**K.S.A.9-2216a. Journal of mortgage transactions; annually written report; penalty.** (a) Each licensee shall maintain a journal of mortgage transactions at the licensee's principal place of business, which shall include at least the following information:

- (1) Name, address and telephone number of each loan applicant;
- (2) type of loan applied for and date of application; and
- (3) disposition of loan application, indicating date of loan funding, loan denial, withdrawal and name of lender if applicable.

(b) 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. 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 \$5000. The commissioner may relieve any licensee from the payment of any penalty, in whole or in part, for good cause.

History: L. 2001, ch. 88, § 1; Nov. 1.

**K.S.A.9-2217. Confidentiality of examination reports; exceptions.**

Examination reports and correspondence regarding the reports made by the commissioner or the commissioner's examiners are confidential, except that the commissioner may release examination reports and correspondence regarding the reports in connection with a disciplinary proceeding conducted by the commissioner, a liquidation proceeding or a criminal investigation or proceeding. Additionally, the commissioner may furnish to federal or other state regulatory agencies or any officer or examiner thereof, a copy of any or all examination reports and correspondence regarding the reports made by the commissioner or the commissioner's examiners. History: L. 1999, ch. 45, § 16; Apr. 8.

**K.S.A.9-2218. Cease and desist orders; civil fines.** (a) If the commissioner determines after notice and opportunity for a hearing pursuant to the Kansas administrative procedure act that any person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of this act or any rule and regulation or order hereunder, the commissioner by order may require any or all of the following:

- (1) That the person cease and desist from the unlawful act or practice;
- (2) that the person pay a fine not to exceed \$10,000 per incident for the unlawful act or practice;
- (3) If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in

K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the commissioner may impose an additional penalty not to exceed \$10,000 for each such violation;

(4) censure the person if the person is registered or licensed under this act;

(5) bar or suspend the person from applying for a license or registration under this act, or associating with a mortgage business or supervised lender licensed in this state;

(6) issue an order requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation. Such order may include the assessment of interest not to exceed 8% per annum from the date of the violation; or

(7) that the person take such affirmative action as in the judgment of the commissioner will carry out the purposes of this act.

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commissioner may issue an emergency cease and desist order.

(1) Such emergency order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto.

(2) Upon the entry of such an emergency order, the commissioner shall promptly notify the person subject to the order that it has been entered, of the reasons, and that a hearing will be held upon written request by the person.

(3) If the person requests a hearing, or in the absence of any request, if the commissioner determines that a hearing should be held, the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Upon completion of the hearing the commissioner shall by written findings of fact and conclusions of law vacate, modify or make permanent the emergency order.

(4) If no hearing is requested and none is ordered by the commissioner, the emergency order will remain in effect until it is modified or vacated by the commissioner.

History: L. 1999, ch. 45, § 17; L. 2000, ch. 17, § 7; L. 2005, ch. 144, §7; July 1.

**K.S.A.9-2219. Injunction.** Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this act or any rule and regulation or order hereunder, the commissioner may bring an action in any court of competent jurisdiction to enjoin the acts or practices and to enforce compliance with this act or any rule and regulation or order hereunder. Upon a proper showing, a permanent or temporary injunction, restraining order, restitution, writ of

mandamus or other equitable relief shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner shall not be required to post a bond.

History: L. 1999, ch. 45, § 18; Apr. 8.

**K.S.A.9-2220. Citation of act.** The provisions of K.S.A. 9-2201 through 9-2220, and amendments thereto, and K.S.A. 9-2216a, and amendments thereto, shall be known and may be cited as the Kansas mortgage business act.

History: L. 1999, ch. 45, § 19; L. 2001, ch. 88, § 17; Nov. 1.