

**STATE OF KANSAS
STATE BANK COMMISSIONER
SPECIAL ORDER 2018-1**

Commercial Real Estate Mortgages, Appraisal and Evaluation Threshold

This Special Order issued this 2nd day of May, 2018, by the State Bank Commissioner (Commissioner).

WHEREAS, pursuant to 83 FR 15019, the Office of the Comptroller of Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation have adopted a final rule on April 9, 2018 amending regulations affecting the requirement for appraisals and evaluations on commercial real estate. Pursuant to the new final rule, when a nationally-chartered bank is engaged in the activity of making commercial real estate mortgages to secure principal debt under \$500,000, the bank is not required to conduct an appraisal provided it conducts an evaluation of the real estate consistent with safe and sound banking practices; and

WHEREAS, pursuant to K.S.A. 9-1101(a)(3) and K.A.R. 17-11-21, Kansas state-chartered banks are not permitted to engage in the activity of making commercial real estate mortgage loans to secure principal debt over \$250,000 unless an appraisal is made by an appraiser who is licensed or certified by the state in which property is located and who is independent of the transaction; and

WHEREAS, K.S.A. 9-1715, as amended, grants the Commissioner the power to authorize Kansas state-chartered banks to engage in any activity in which such banks could engage were they operating as a national bank; and

WHEREAS, the Commissioner deems the issuance of this Special Order to be reasonably required to preserve the welfare of state banks and to promote the competitive equality of state banks and other insured depository institutions.

IT IS THEREFORE ORDERED, subject to the limitations and conditions set forth in this Special Order, a Kansas state-chartered bank is hereby authorized to make commercial real estate mortgages to secure principal debt under \$500,000 without an appraisal made by an appraiser who is licensed or certified by the state in which the property is located and who is independent of the transaction; and

IT IS FURTHER ORDERED, prior to making a commercial real estate mortgage to secure principal debt between \$25,000 and \$500,000, two officers or directors, or a qualified individual who is independent of the transaction, shall complete an accurate evaluation of the real estate unless the bank has an appraisal conducted compliant with K.A.R. 17-11-21 or the loan is otherwise exempt from an appraisal or evaluation pursuant to K.A.R. 17-11-21(c); and

IT IS FURTHER ORDERED, any person who conducts an evaluation pursuant to this Special Order shall view the premises, make a written statement of value, and sign and file the statement with the bank. Such evaluation shall include: (1) a legal description of the property, including street address (if applicable), its present and projected use, (2) The owner(s) of the

property, (3) The type and general condition of improvements, including approximate age, size, and construction, The estimated market value and basis used for determining that value, including a description of the information and analysis used, and (4) The date of the evaluation and the signature and address of the evaluator(s). Evaluations should include any calculations and supporting assumptions necessary to provide the reader an understanding of the analysis and conclusions contained in the evaluation.; and

IT IS FURTHER ORDERED, this Special Order shall not prohibit the Commissioner from requiring an appraisal or evaluation if it is deemed necessary to address safety and soundness concerns; and

IT IS FURTHER ORDERED, this Special Order shall not be applicable to any residential mortgage or commercial real estate loan securing a single 1-to-4 family residential property, including, but not limited to, construction loans; and

IT IS FURTHER ORDERED pursuant to K.S.A. 9-1715(b), as amended, the terms of this Special Order shall take effect on May 2, 2018. If K.A.R. 17-11-21 is amended, this Special Order shall automatically become revoked when the amendment incorporating the change is effective.

IT IS SO ORDERED.

BANK COMMISSIONER
Michelle W. Bowman