



Kansas Amends its Mortgage Business Act

By Julio Suarez, J.D.

Effective July 1, 2016 Kansas amended its provisions regarding its Mortgage Business Act (hereinafter referred to as the MBA). This includes definitions, exemptions, licensing and registration, proof of display of license, bond requirements, prohibited acts and retention of records.

Section I. K.S.A. 2015 Supp. 9-2201

The following is the definitive list of definitions that exhibited substance changes within the pertaining section. For the full reading please refer to the link provided at the end of the article.

1. Application
2. Bona fide office
3. Commissioner
4. Individual
5. Mortgage business
6. Mortgage loan
7. Mortgage servicer
8. Mortgage servicing
9. Not-for-profit
10. Primary market



Section II. K.S.A. 2015 Supp. 9-2202

Section II covers those businesses which are exempt from the licensing requirements put forth by the MBA. Two changes occurred in the legislature's amendment of this provision; one an omission and the other an addition. Firstly, individuals who are licensed as a supervised lender pursuant to K.S.A. 16A 2 301 and amendments thereto are no longer exempted. Secondly, not-for-profit entities that provide mortgage loans and have a simultaneous mission of building or rehabilitating affordable homes to low-income consumers are now exempted.

Section III. K.S.A. 2015 Supp. 9-2203

Section III lays out the requirements in order to conduct mortgage business in the state along with detailing the legal repercussions of an individual who willfully or knowingly violates the MBA. Of notable change was the addition of a limitation on one of the requirements: licenses. Namely, nothing under this act requires a licensee to obtain any other license –other than those previously delineated in the MBA – for the sole purpose of conducting non-depository mortgage business.

Section IV. K.S.A. 2015 Supp. 9-2205

Section IV denotes the requirements for the attainment and renewal of a registration or license. The amendment to this section replaces the location needed in order for a license or registration to become effective. Previously, the license or registration would become effective as of the date specified on the face of the certificate. However, the amendment expands that definition and holds a license or registration effective as of the date specified in writing by the commissioner.

Section V. K.S.A. 2015 Supp. 9-2206

Section V explains the procedure of attaining a hearing on the issuance or renewal of an application. The amendment no longer requires a "filed application" but rather an "application deemed complete by the commissioner" as the required document after the time requirement specified has been met.

Section VI. K.S.A. 2015 Supp. 9-2208

Section VI covers the relationship, and its pertinent regulations, between mortgage businesses and consumers. Small changes occurred due to the amendment such as the replacement of "customer" with "consumer". However, of particular importance is the length of which each licensee must hold a record of its solicitations or advertisements; expanding the previous 25 month period to 36.

Section VII. K.S.A. 2015 Supp. 9-2209

Section VII deals with the powers the commissioner may exercise. Of notable change is the expansion of powers that the commissioner has been given. Previously his powers were to adopt rules and regulations as necessary to carry out the intent and purpose of "the Secure and Fair Enforcement for Mortgage Licensing Act of 2008". That has now been broadened and replaced with the intent and purpose of "applicable federal law".

Furthermore, certain actions the commissioner may conduct were explicitly stated. Namely, to receive and act on complaints, provide guidance and written administrative guidance documents in order to facilitate better understanding of the MBA and enter into informal agreements with mortgage companies for a plan of action to address violations of laws.

Section VIII. K.S.A 2015 Supp. 9-2211 through Section XI K.S.A. 2015 Supp. 9-2216a

Sections contained no notable changes.

Section XII. K.S.A 2015 Supp. 9-2206

Section XII was repealed.

These changes were some of the most notable changes in the MBA. In order to read the full text and read all of the changes please follow the link provided below:

http://www.kslegislature.org/li/b2015_16/measures/documents/sb369_enrolled.pdf