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MEMORANDUM

To: House Committee on Financial Institutions and Pensions

From: Office of Revisor of Statutes

Date: March 11, 2024

Subject: **HB 2812 - Modifying certain terms, definitions, deadlines and provisions contained in the uniform consumer credit code and transferring certain mortgage provisions from the uniform consumer credit code to the Kansas mortgage business act.**

House Bill No. 2812 makes changes to the uniform consumer credit code (UCCC) and the Kansas mortgage business act. The bill removes from the UCCC provisions relating to mortgages and transfers such provisions to the Kansas mortgage business act (KMBA). (*New sections 1 through 14, PP. 2-9*) and amends the definitions section of the KMBA to incorporate the relevant definitions from the UCCC for mortgages. (*Sec. 17, K.S.A. 9-2201, pp. 10-15*)

Additional changes to the UCCC include:

Adjusting the existing \$25,000 amount financed threshold to cover consumer credit transactions up to the amount listed currently listed in federal regulation under the truth in lending act with such threshold amount adjusted annually by the increase in the consumer price index. (*Sec. 37, K.S.A. 16a-1-301, pp. 32-41*)

Aligning licensing requirements to the standards used in the Nationwide Multistate Licensing System. (*Sec. 43, K.S.A. 16a-2-302, pp. 46-50*)

Requiring books and records for examination to be provide within three business days of written request. (*Sec. 45, K.S.A. 16a-2-304, pp. 52-54*)

Modifying consumer loan finance charges. (*Sec. 49, K.S.A. 16a-2-401, pp. 56-58*)

Allowing a person or retailers to impose a credit card surcharge on a customer when such person or retailer imposing such surcharge discloses the amount of such surcharge through a clear and conspicuous notice to the customer at the point of entry or the point of sale and in advance of the sales transaction. (*Sec. 51, K.S.A. 16a-2-403, p. 58*)

Allowing a payday loan to be repaid pursuant to an extended payment plan once every 12 months. (*Sec. 52, K.S.A. 16a-2-404, p. 58-62*)

Allowing electronic signatures and electronic writings if the consumer agrees in writing to the use of such electronic methods instead of mail. (*New Sec. 16, p. 9*)

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Clarifying powers of the administrator and examination material confidentiality provisions, including informal agreements. (*Sec. 104, K.S.A. 16a-6-104, pp. 90-93; and Sec. 106, K.S.A. 16a-6-106, pp. 94-96*)

Removing duplicative filing requirements for supervised loan licensees as consumer credit files and extending annual timing of filing for existing consumer credit filers. (*Sec. 114, K.S.A. 16a-6-201, p. 100; and Sec. 116, K.S.A. 16a-6-203, pp. 100-101*)

Changes to the KMBA:

Incorporating all relevant mortgage provisions from the UCCC to apply to "covered transactions" and adding the relevant definitions. (*New Sections 1 through 14; and Sec. 17, K.S.A. 9-2201, pp. 10-15*)

Allowing electronic signatures and electronic writings if the consumer agrees in writing to the use of such electronic methods instead of mail. (*New Sec. 2, p. 2*)

Exempting certain business entities, such as trusts, with no employees where licensed mortgage company acts as proxy by conducting all mortgage business on behalf of the entity for the entity. (*Sec. 18, K.S.A. 9-2202, p. 15*)

Adjusting signed acknowledgement to a similar notice to be sent by a licensed mortgage company. (*Sec. 20, K.S.A. 9-2208, pp. 16-17*)

HB 2812 also makes technical and conforming amendments to both the UCCC and the KMBA, as well as K.S.A. 16-207, 16-207d and 40-1209.

The Senate introduced SB 495 with these same provisions. The Senate Committee on Financial Institutions and Insurance amended the contents of SB 495 into Senate Substitute for HB 2247 and passed Sen. Sub for HB 2247 by a vote of 33-6 on February 22, 2024.