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MEMORANDUM

To: Senate Committee on Financial Institutions and Insurance

From: Office of Revisor of Statutes

Date: March 9, 2022

Subject: **HB 2568**: Amending the Kansas mortgage business act by providing for mortgage business work at remote locations, license and registration renewal or reinstatement procedures, surety bond requirements and evidence of solvency and net worth and requiring notice when adding or closing branch offices.

House Bill No. 2568 makes amendments the Kansas mortgage business act, including several amendments to allow certain mortgage business to be conducted remotely. The bill was passed by the House Committee of the Whole by a vote of 118 to 3 on February 23, 2022 and referred to this committee on March 1, 2022.

Section 1 amends K.S.A. 9-2201, the definitions section of the Kansas mortgage business act, by deleting the definitions for "application" and "bona fide office," adding new definitions of "mortgage loan application" and "remote location" and changing the definitions of "branch office," "mortgage company" and "principal place of business."

Section 2 amends K.S.A. 9-2203 to allow mortgage business to be conducted at a remote location if:

- 1) The licensed mortgage company's employees or contractors do not meet with the public at a personal residence;
- 2) No physical business records are maintained at the remote location;
- 3) The company has written policies and procedures for working at remote locations and such company supervise and enforces such policies and procedures;
- 4) The company maintains the computer system and customer information in accordance with the company's IT security plan and all state and federal laws;
- 5) Any device used to engage in mortgage business has appropriate security, encryption and device management controls to ensure the security and confidentiality of customer information as required by rules and regulations adopted by the commissioner;
- 6) The company's employees or contractors take reasonable precautions to protect confidential information in accordance with state and federal laws; and

- 7) The company annually reviews and certifies that employees or contractors meet the requirements of this section and upon request, the company provides written documentation of such review to the commissioner.

Section 3 amends K.S.A. 9-2204 to remove the requirement that a mortgage company submit separate applications for the company's principal place of business and each branch office and instead have the mortgage company submit only one application.

Section 4 amends K.S.A. 9-2205 to adjust the license and registration expiration, renewal and reinstatement requirements and dates. Each license and registration shall expire on December 31 of each year. A license shall be renewed by filing with the commissioner a complete renewal application and nonrefundable renewal fee by December 1 of each year. Applications received after December 1 or that are incomplete as of December 1 may be assessed a late fee. An expired license may be reinstated through the last day of February by filing a reinstatement application and paying the appropriate application and late fees. The commissioner may designate late fees for consumer education to be expended for such purpose as directed by the commissioner.

Section 5 amends K.S.A. 9-2208 to remove the requirement that each licensed location make available evidence of licensure to consumers and the general public.

Section 6 amends K.S.A. 9-2211 to require each applicant or licensee to file a \$100,000 surety bond with the commissioner instead of the current law of a \$50,000 bond for licensees who maintain a bona fide office and a \$100,000 bond for licensee that do not maintain a bona fide office. This section also requires applicants or licensees to submit evidence that they are solvent and shall at all times maintain a positive net worth. This section deletes the current requirement that evidence of net worth be accompanied by a written statement by an independent CPA that the balance sheet or financial statement has been reviewed in accordance with generally accepted accounting principles.

Section 7 amends K.S.A. 9-2215 to require a licensee to provide written notice to the commissioner when adding or closing a branch office.